



ఆంధ్రప్రదేశ్ రాజపత్రము

THE ANDHRA PRADESH GAZETTE PUBLISHED BY AUTHORITY

PART II EXTRAORDINARY

No.57

AMARAVATI, TUESDAY, FEBRUARY 27, 2024

G.3939

NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

--X--

LEGISLATURE SECRETARIAT (LEGN.)

BEFORE THE HON'BLE SPEAKER
ANDHRA PRADESH LEGISLATIVE ASSEMBLY
AT VELAGAPUDI
MONDAY, THE 26TH FEBRUARY, 2024

Present: Sri Thammineni Seetharam, Hon'ble speaker

Disqualification Petition No.1 of 2024

BETWEEN:

Sri Mudunuri Naga Raja Vara Prasada Raju,
S/o. Satyanarayana Raju, Aged about 50 years,
MLA From Narasapuram Assembly Constituency (58) and
Chief Whip in A.P. Legislative Assembly

... PETITIONER

AND

Dr. Vundavalli Sridevi,
W/o. Kammela Sreedhar, Aged about 53 years,
MLA from Tadikonda Assembly Constituency (86)

... RESPONDENT

ORDER

This petition is filed by Sri Mudunuri Naga Raja Vara Prasada Raju, Govt. Chief Whip, YSR Congress Legislature Party, the Petitioner, under Article 191 and X Schedule of the Constitution of India, r/w. Rule 6 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 (Hereinafter referred to as “**Rules**”) against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having been setup by the YSR Congress Political party from 86 – Tadikonda Assembly Constituency and assumed office in 2019.
- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of B-Form that was allotted to her by the YSRCP and with the symbol of Fan that was allotted to the political party. He has further stated that the Respondent had voluntarily acted in contravention to the principles of the YSRCP and had begun to function in affiliation to the opposition party and to give up her membership of the legislative party by which the Respondent was elected.
- 1.3. The Petitioner further submitted that the Respondent had evidently and publicly expressed her affiliation to the opposition party after having cross voted contrary to the direction issued by the Whip at the time of conducting MLC elections in the month of March 2023 and the said ill action or violation of the Respondent was not condoned by the YSRC Legislature Party in any means.

- 1.4. It is further contended that on 10th August, 2023, the Respondent had personally met with the Leader of the Opposition and had explicitly offered her support for the activities devised by the Opposition against the YSRC Legislature Party of which the Respondent at that relevant point of time was a part of the party, the Petitioner stated.
- 1.5. The Petitioner averred that the Respondent had expressed her intention to defect into the opposition political party in the public interview, given by her on 10th August, 2023. Apart from this, it was also contended that the Respondent had participated in the road show conducted by Sri Nara Lokesh, Son of the Opposition Party Leader, on 14th and 23rd August, 2023.
- 1.6. Further, the Petitioner stated that the Respondent had put up a personal statement on 9th September, 2023 expressing her displeasure on the action of the State arresting Sri Nara Chandrababu Naidu.
- 1.7. It is also contended that on 21st September, 2023, the Respondent had tweeted a message with several hashtags against the State Government/Legislature Party and a picture depicting her solidarity to Sri Nara Chandrababu Naidu. It is further contended that on 14th October, 2023, the Respondent had publicly participated in the protest held at Hyderabad against the arrest of Sri Nara Chandrababu Naidu and the said protest was against the Legislature Party of which the Respondent remained a part of as on the said date, the Petitioner added further.
- 1.8. The Petitioner also stated that the Respondent had given up her membership of YSRCP by her conduct by joining the Opposition party

along with her family Members upon accepting the yellow Colour shawl, depicting the Colour of the Opposition Party Flag, in the presence of Opposition Party Leader Sri Nara Chandra Babu Naidu on 15th December, 2023 and the Khanduva of TDP was given to her husband and daughters and this act evidently shows that the Respondent defected to the opposition party violating the relevant provisions of the Constitution of India.

1.9. It is vehemently contended that the Respondent had indicated her allegiance to the actions of the TDP by propagating and making derogatory statements against YSRCP/Legislature Party which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such telecasts and publications, evidencing thereby the Respondent has conclusively by her act and intent voluntarily given up her membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.

1.10. It is vehemently contended by the Petitioner that the visible conduct of the Respondent undeniably amounts to voluntarily giving up her membership of YSRCP. The Respondent contested elections and secured election from the YSRC Party and has defected to TDP. The Respondent,

therefore, deserves to be disqualified from being continued as member of Legislative Assembly as mandated under para 2(1) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Dr.Vundavalli Sridevi as the Respondent had voluntarily given up her membership of the political party by which the Respondent has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1. On 8th January 2024, Sri Mudunuri Naga Raja Vara Prasada Raju, Govt. Chief Whip, YSRC Party, the Petitioner, has submitted the disqualification petition. The Respondent was served the notice on the same day through India Post to offer her comments within a week by providing all the material given by the Petitioner and through email as well.
- 2.2. On 16th January, 2024 the Respondent has stated that the Respondent was in receipt of the communication and requested to extend the time for offering her comments for 4 weeks. After considering the request of the Respondent, further time was granted for offering comments for one more week i.e., till 25th January 2024.
- 2.3. Thereafter, on 25th January 2024 the Respondent requested for further extension of time and sought for 4 weeks and the said request was not accepted in full and on the same day, notice was served upon the Respondent to appear for oral hearing on 29th January 2024. The

Respondent requested for details of the links provided in the annexure of the petition though the Respondent was already in possession of all the hyperlinks in a CD that contain the details. Both the Petitioner and the Respondent appeared on 29th January 2024 and in the said proceedings, the Petitioner, on oath affirmed and restated the contents of the petition.

- 2.4. The Respondent during the course of oral hearing held on 29th January 2024, submitted that Respondent was unwell and that the Respondent was admitted in the hospital. Further, the Respondent requested for the original newspaper clippings and had also stated that the links provided to her were not opening in her computer or mobile. The Respondent further stated that the Respondent was not aware of legal intricacies of the case and requested to provide 4 more weeks to engage an advocate to defend her case as Respondent was ill. The Respondent requested for more time to examine the petition. The Respondent had however, submitted her written preliminary comments on the petition during the oral hearing on the very said date.
- 2.5. In view of the above, the copy of the petition along with the annexures and a pen drive containing the videos and the soft copies of the contents in the links to the Media clippings as were submitted by the Petitioner were again sent to the Petitioner on the 30th January 2024.
- 2.6. Besides, an opportunity was given to her to send her further comments by 5th February 2024. The Respondent was also informed that in case of any

difficulty in opening the pen drive, the legislature secretariat would help.

The Respondent was further requested to appear at 11 AM on Thursday the 8th February 2024 for oral hearing on the petition. It was also stated that during the hearing the Petitioner would also be present and that both the parties may verify the material provided by each other, and authenticate.

- 2.7. On the 5th February 2024, the Respondent has filed her further comments and on 8th February 2024, when the oral hearing of the Respondent and the Petitioner was slated, the Respondent did not appear and Respondent has sent a letter requesting for further time. During the oral hearing, the Petitioner had filed the certificate under section 65B of the Evidence Act, 1872 affirming the source of the Hyperlinks and the details of the system on which the same were viewed and accessed on the World Wide Web/Internet.
- 2.8. Since the Respondent was not present during the oral hearing on the 8th February 2024, the certificate filed by the Petitioner under Section 65B of the Evidence Act, 1872 was served upon the Respondent and her comments in relation to the same were invited. Further, the Respondent was also given an opportunity to visit the office and verify the documents/material. It was further informed that if the video links provided by the office through a pen drive / CD are not opening, the

Respondent was advised to come to the office on Monday the 12th February 2024 for the purpose of examining the video links.

- 2.9. Further the Respondent was requested to appear before this Authority at 11 a.m. on Monday, the 12th February 2024 for clarifications if any on the said certificate or any other matter in this regard and the Respondent was also informed that if the Respondent fails to appear on the said date, the petition will be finalized without any further opportunity. It is very important to record that the Respondent, despite receiving the above notice, chose not to appear for oral hearing on the 12th February, 2024.
- 2.10. The Respondent was again called for oral hearing on the 15th February, 2024 and informed her to make submissions w.r.t., the certificate filed by the Petitioner under Section 65B of Indian Evidence Act, 1872. The Respondent was also informed that in the event of failure to appear in person or through her counsel and make submissions, appropriate orders on the material available on the record would be delivered. However, the Respondent chose not to appear on the 15th February 2024 too.
- 2.11. Having not appeared on 15.02.2024, the Respondent through a letter dated 15.02.2024, has stated that she would need a certificate from the management of the publisher or electronic media stating that the photos published were genuine. Such a request of the Respondent appeared to be the delay tactics adopted merely to procrastinate the proceedings. However, in order to ensure that proper opportunity was duly offered, the

Respondent was again called for final oral hearing on the 19th February, 2024 by categorically informing that in the event of failure, the matter would be decided on merits and the record. However, for the reasons known to the Respondent, She chose not to appear on 19th February, 2024 too and sent a letter wherein the Respondent has restated whatever the Respondent had mentioned in her letter dated 15.02.2024.

3. COMMENTS MADE BY THE RESPONDENT:

- 3.1. The Respondent during the course of oral hearing held on 29th January 2024, submitted her written preliminary comments on the petition during the oral hearing on the very said date.
- 3.2. In the preliminary comments, the Respondent denied the allegations made in the petition by the Petitioner as false and baseless and merely based on the newspaper reports and unverified video clippings. The Respondent has further added that a report in a newspaper is only heresy evidence and a newspaper is not one of the documents referred to in Section 78 (2) of the evidence act, 1872. The Respondent has further stated that a newspaper item without any further proof of what had actually happened through witnesses is of no value. The Respondent has therefore requested that proceedings against the Respondent shall not be continued, merely basing on the unsubstantiated newspaper reports/unverified video clippings.

- 3.3. The Respondent has also stated that the petition or the annexures have neither been signed nor verified by the Petitioner as prescribed in rule 6 and 7. The Respondent has also submitted that Respondent was not supplied with the original video clippings of the statements said to have been made by her and that the Respondent was provided only with the hyperlinks of the said videos, even without a certificate, identifying the electronic record and without a signature of the person who operates the relevant device. The Respondent has mentioned that the certificate under Section 65B shall have to be provided for all such electronic record as that signature shall be evidence of the authenticity of the certificate.
- 3.4. The Respondent has further stated that the video links of YouTube were not working and the Respondent was unable to see the allegations and genuineness of the videos that are allegedly circulated in the social media.
- 3.5. The Respondent has also stated that non-denial of the news reports/publications cannot be treated as voluntarily giving up the membership under Para 2(1)(a) of the X Schedule of the Constitution of India.
- 3.6. The Respondent has thus requested that she may be submitted with all the copies of the alleged videos and the posting of the persons in social media through a pen drive or through compact disc. The Respondent reserves the right to submit her comments once the Respondent was supplied with

all the material that is being relied upon by the Petitioner in a proper format.

- 3.7. In addition to the above-mentioned preliminary submissions, the Respondent had also filed the submissions. In the further comments, the Respondent had reiterated her submissions as were made in the preliminary comments and the Respondent failed to place on record any new facts or submissions.
- 3.8. It is pertinent to note that after reserving the matter for the pronouncement of the final orders, the Respondent submitted one letter dated 19.02.2024 wherein, the Respondent requested for furnishing original copies along with signed certificate of the authorised signatory and also requested for summoning the Petitioner for examination for oral hearing effectively and grant three weeks' time to appear for final oral hearing.
- 3.9. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other. At the outset, it is also noted that the Preliminary and the Final Submissions/Comments filed by the Respondent are already on record, this Authority proceed to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether the Petition filed by the Petitioner is maintainable in its present form?*
2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party?*
3. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS/ REASONING :

5.1 Whether the Petition filed by the Petitioner is maintainable in its present form?

5.1.1. The Respondent had pleaded that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Members of Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986 and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – *Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.*

Rule 7(2) – *If the Petition does not comply with the requirements of Rule 6, the Speaker shall dismiss the Petition and intimate the Petitioner accordingly.*

5.1.2. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned provision, the provision cannot be considered as complete. Therefore, the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. *Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. *The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii.
- iv.

5.1.3. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this Authority is required to be duly verified by party filing such a pleading.

5.1.4. In the present set of facts, the Petition, *per se*, may not have been affixed with a verification at its bottom, the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every statement that was made in the Petition and the said Affidavit was

duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.5. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent. Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.6. The rule 7(7) of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.7. In this regard the following observation made by the supreme court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to

bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

5.1.8. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent her case and also bring her lawyer in oral hearing.

5.1.9. The Respondent was provided all the material, digital links in a CD first time and in a pen drive second time and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral hearing to

clarify his position on the Certificate under Section 65B of Indian Evidence Act, 1872. The Respondent has not made use of the opportunities provided. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and thereby the request for further time was rejected and the matter was reserved for Orders.

5.1.10. This Authority also take this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.11. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to

undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.12. Further, the Respondent has also pleaded that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings has rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and have cured the said defect, the Petitioner had concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same in the said circumstances, the said objection that Certificate under the Section 65B of the Evidence Act, 1872 was not filed by the Petitioner at the time of filing of the Petition has no relevance and thereby is rejected.

5.1.13. Consequent to the above analysis, it is extremely clear that the Petition/Pleading is duly verified and the Material filed along with the Petition is also duly certified and verified by the Petitioner through a Certificate filed in compliance with Section 65B of the Indian Evidence Act, 1872. Having arrived at the above conclusions, it is held that the Petition in its present form is very much in compliance with the applicable rules and also Section 65B of the Evidence Act, 1872. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

5.2 Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of the Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed? As the said Issues are intertwined, this Authority dealing to analyse both the Issues simultaneously.

5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and her having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that newspaper articles cannot be relied upon as evidence in the absence of any witness. Further, the Respondent had also objected to a reference to various video clippings as published by the News Channels

on the ground that the source of the same is not duly certified as is required under Section 65B of the Indian Evidence Act.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the news paper clippings and the videos which suggest the anti-political party activities of the Respondent, the Petitioner had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such spccific acts were committed by the Respondent.

5.2.3. *For Example: At Para 3.10 (g) of the Petition, the Petitioner pleaded as follows:*

"g It is further pertinent to note that having expressly supported the Opposition Party for a very long period, the Respondent culminated her support to the Opposition Party by joining the Opposition Party/Telugu Desam Party on 15th December, 2023. It is pertinent to note that the Respondent had not only attended a public meeting on the above said date but had also evidently joined the said political party along with her family by symbolically making the leader of the opposition party, Shri. Narachandrababu Naidu, accept her offer to join by covering her with a yellow colour shawl depicting the color of the Opposition Party Flag and giving the "khanduva" of TDP to her husband and daughters. It is humbly submitted that through the above act, the Respondent had publicly and evidently offered herself and joined into the opposition party despite still being a member of Legislative Party and thereby got defected and violated the relevant provisions of the Constitution of India and the relevant rules."

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Opposition Political Party on 15.12.2023 by meeting the Opposition Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend her solidarity to the Opposition Party activities.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that

the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, in most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *maneuvering* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it's imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority have looked into the corresponding response of the Respondent in the Reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not appropriate supported by the certificates and the

verifications. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of her meeting the Opposition Party Leader and her activities extending support to the activities of the Opposition Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up her membership by conduct which is not denied by the Respondent.

5.2.8. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, This Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.9. In the instant case some leading telugu newspapers have reported that the Respondent has joined the Telugu Desam Party. Other media reports and photographs collaborate this. The videos also suggest her active

participation in the activities of TDP and her joining TDP. The Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has the Respondent given the proof of doing so.

5.2.10. The Supreme Court in a landmark judgment in the case of *Ravi S. Naik vs. Union of India* on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.11. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986. Under Para 6(1) the

Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.12. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority, a video evidencing the participation of the Respondent in the events organised by the opposition party established that the Respondent wilfully had joined hands with the opposition party which is detrimental to the political party on which the Respondent was elected as member.

5.2.13. Additionally, as per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* I record that the Respondent had indeed acted against its original political party and thereby also, Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, this Authority have also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.2.14. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent herself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) categorically proved that the Respondent had indeed acted against her original political party and thereby she defected into TDP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Dr. Vundavalli Sridevi member of Andhra Pradesh Legislative Assembly from 86 - Tadikonda Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Dr. Vundavalli Sridevi, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that her seat has fallen vacant.

Disqualification Petition No.2 of 2024

BETWEEN:

Sri Mudunuri Naga Raja Vara Prasada Raju,
S/o. Satyanarayana Raju, Aged about 50 years,
MLA From Narasapuram Assembly Constituency (58) and
Chief Whip in A.P. State Legislative Assembly

... PETITIONER

AND

Sri Mekapati Chandrasekhar Reddy
S/o. Venku Reddy, Aged about 69 years,
MLA from 123 Udayagiri Assembly Constituency

... RESPONDENT

O R D E R

This petition is filed by Sri Mudunuri Naga Raja Vara Prasada Raju, Govt. Chief Whip, YSR Congress Legislature Party, the Petitioner, under Article 191 and X Schedule of the Constitution of India, r/w. Rule 6 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 (Hereinafter referred to as “**Rules**”) against the Respondent .

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having

been setup by the YSR Congress Political party from 123 – Udayagiri Assembly Constituency and assumed office in 2019.

- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of B form that was allotted to him by the YSRCP and with the symbol of Fan that was allotted to the political party. He has further stated that the Respondent had voluntarily acted in contravention to the principles of the YSRCP and had begun to function in affiliation to the opposition party and to give up his membership of the legislature party by which he was elected.
- 1.3. The Petitioner further submitted that the Respondent had evidently and publicly expressed his affiliation to the opposition party after having cross voted contrary to the direction issued by the Whip at the time of conducting MLC elections in the month of March 2023 and the said ill action or violation of the Respondent was not condoned by the Legislature Party in any means.
- 1.4. It is further contended by the Petitioner that on 10th June 2023 the Respondent had evidently, publicly and unequivocally expressed his decision to join opposition party after meeting Sri Nara Lokesh one of the leaders of the Telugu Desam Party, in Yuvagalam Padayatra event in his constituency. The Petitioner further contended that the Respondent extended his support to the opposition party by joining TDP on 15th December 2023 and also attended a public meeting on the same date

and evidently joined the said political party by symbolically allowing the leader of the opposition party Sri Nara Chandrababu Naidu to felicitate him with a yellow coloured garb depicting the colour of opposition party flag.

- 1.5. The Petitioner further contended that the Respondent has publicly and evidently offered himself and joined the opposition party despite being a member of legislature party from which he got elected and thereby got defected and violated the relevant principles of the Constitution of India and the relevant rules.
- 1.6. The Petitioner further averred that the Respondent indicated his allegiance to the actions of the TDP by propagating and making derogatory statements against YSRC Legislature party which were video-graphed and telecast in TV Channels and the news appeared in all the vernacular News Papers. It is contended that the Respondent has not denied the contents of such telecast and publications, evidencing thereby the Respondent has conclusively by his act and intent voluntarily given up his membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.
- 1.7. It is vehemently contended by the Petitioner that the visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of YSRCP. The Respondent contested elections and secured election from the YSRCP and has defected to TDP. The Respondent,

therefore, deserves to be disqualified from being continued as member of Legislative Assembly as mandated under para 2(1) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri Mekapati Chandra Sekhar Reddy as the Respondent had voluntarily given up his membership of the political party by which he has got elected.

2. THE PROCEEDINGS BEFORE THE SPEAKER:

- 2.1. On 8th January 2024, Sri Mudunuri Naga RajaVara Prasada Raju, Govt. Chief Whip, YSRC Party, the Petitioner, has submitted the disqualification petition. The Respondent was served the notice on the same day through India Post to offer his comments within a week by providing all the material given by the Petitioner and through email as well.
- 2.2. On 16thJanuary, 2024 the Respondent has submitted that he was in receipt of the communication and requested to extend the time for offering his comments for 4 weeks. After considering the request of Respondent, further time was granted for offering comments for one more week i.e. by 25th January 2024.
- 2.3. Thereafter, on 24th January 2024 the requested to extend the time again for 4 weeks for which I did not accede to and on 25th January, 2024 notice was served to the Respondent to depose before this Authority for oral hearing on 29th January 2024. The Respondent requested for details of the

links provided in the annexure of the petition though the Respondent has already been provided all the digital links in a CD that contain the details. Both the Petitioner and the Respondent appeared on 29th January, 2024 and in the said proceedings, the Petitioner, on oath affirmed and restated the contents of the petition.

- 2.4. The Respondent during the course of oral hearing held on 29th January 2024 informed that the original newspaper clippings and the links provided to him were not opening in his computer or mobile. The Respondent further stated that he was not aware of legal intricacies of the case and requested to provide him 4 weeks time to engage an advocate to defend his case. He requested for more time to examine the petition. The Respondent had however, submitted his written preliminary comments on the petition during the oral hearing on the very said date.
- 2.5. In view of the above, the copy of the petition along with the annexures and a pen drive containing the videos and the soft copies of the contents in the links to the Media clippings were sent to him on the 30th January 2024.
- 2.6. Besides, an opportunity was given to him to send his further comments by 5th February 2024. The Respondent was also informed that in case of any difficulty in opening the pen drive, the legislature secretariat would help. The Respondent further requested to appear before this Authority at 11:30 A.M. on Thursday the 8th February 2024 for oral hearing on the

petition. It was also stated that during the hearing the Petitioner would also be present so that both the parties may verify the material provided by each other, and authenticate.

- 2.7. On the 5th February 2024, the Respondent has filed his further comments and, on the 8th February 2024, when the oral hearing of the Respondent and the Petitioner was slated, the Respondent did not appear and he has sent a letter requesting for further time. During the oral hearing, the Petitioner had filed the certificate under Section 65B of the Evidence Act, 1872 affirming the source of the Hyperlinks and the details of the system on which the same were viewed and accessed on the World Wide Web/Internet.
- 2.8. Since the Respondent was not present during the oral hearing on the 8th February 2024, the certificate filed by the Petitioner under section 65B of the Evidence Act, was served upon the Respondent and his comments in relation to the same were invited. Further, the Respondent was also given an opportunity to visit the office and verify the documents/material. It was further informed that if the video links provided by the office through a pen drive are not opening, the Respondent was advised to come to the office on Monday the 12th February 2024 for the purpose of examining the video links.
- 2.9. Further, the Respondent was requested to appear before this Authority at 11.30 a.m. on Monday, the 12th February 2024 for clarifications if any on

the said certificate or any other matter in this regard and the Respondent was also informed that if the Respondent fails to appear before this Authority on the said date, the petition would be finalized without any further opportunity. It is pertinent to record that the Respondent, despite receiving the above notice, chose not to appear for oral hearing on 12th February, 2024.

- 2.10. The Respondent was again called for oral hearing on 15th February, 2024 and informed him to make submissions w.r.t the certificate filed by the Petitioner under Section 65B of Indian Evidence Act, 1872. The Respondent was also informed that in the event of failure to appear in person or through his counsel and make submissions, appropriate orders on the material available on the record would be delivered. However, the Respondent chose not to appear on 15th February 2024 too.
- 2.11. Having not appeared on 15.02.2024, the Respondent through a letter dated: 15.02.2024 has stated that he would need a certificate from the management of the publisher or electronic media that the photos published were genuine. Such a request of the Respondent appeared to be delay tactics adopted merely to procrastinate the proceedings. However, in order to ensure that proper opportunity was duly offered, the Respondent was again called for final oral hearing on 19th February, 2024 by categorically informing that in the event of failure, the matter would be decided on merits and the record. However, for the reasons known to

the Respondent, he chose not to appear on 19th February, 2024 too and sent a letter wherein the Respondent has restated whatever the Respondent had mentioned in his letter dated 15.02.2024.

3. COMMENTS MADE BY THE RESPONDENT :

- 3.1. The Respondent during the course of oral hearing held on 29th January, 2024, submitted his written preliminary comments on the petition.
- 3.2. In the preliminary comments, the Respondent denied the allegations made in the petition by the Petitioner as false and baseless and merely based on the newspaper reports and unverified video clippings. The Respondent has further added that a report in a newspaper is only heresy evidence and a newspaper is not one of the documents referred to in section 78 (2) of the evidence act, 1872. The Respondent has further stated that a newspaper item without any further proof of what had actually happened through witnesses is of no value. The Respondent has, therefore, requested that proceedings against the Respondent shall not be continued, merely basing on the unsubstantiated newspaper reports/unverified video clippings.
- 3.3. The Respondent has also stated that the petition or the annexures have neither been signed nor verified by the Petitioner as prescribed in rule 6 and 7. The Respondent has also submitted that he was not supplied with the original video clippings of the statements said to have been made by him and he was provided only with the hyperlinks of the said videos,

even without a certificate, identifying the electronic record and without a signature of the person who operates the relevant device. The Respondent also mentioned that the certificate under Section 65B of Indian Evidence Act, 1872 shall have to be provided for all such electronic record as that signature shall be evidence of the authenticity of the certificate.

- 3.4. The Respondent has further submitted that the video links of YouTube are not working and he was unable to see the allegations and genuineness of the videos that are allegedly circulated in the social media.
- 3.5. The Respondent has also submitted that non-denial of the news reports/publications cannot be treated as voluntarily giving up the membership under Para 2(1)(a) of the X Schedule of the Constitution of India.
- 3.6. The Respondent has thus requested that he may be submitted with all the copies of the alleged videos and the posting of the persons in social media through a pen drive or through compact disc. The Respondent reserves the right to submit his comments once he was supplied with all the material that is being relied upon by the Petitioner in a proper format.
- 3.7. In addition to the above-mentioned preliminary submissions, the Respondent had also filed the submissions. In the further comments, the Respondent had reiterated his submissions as were made in the preliminary comments and the Respondent failed to place on record any new facts or submissions.

- 3.8. It is pertinent to note that after reserving the matter for the pronouncement of the final orders, the Respondent submitted one letter dated 19.02.2024 wherein, the Respondent requested for furnishing original copies along with signed certificate of the authorised signatory and also requested for summoning the Petitioner for examination for oral hearing effectively and grant three weeks' time to appear for final oral hearing.
- 3.9. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other. At the outset, it is also noted that the Preliminary and the Final Submissions/Comments filed by the Respondent are already on record, this Authority proceed to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether the Petition filed by the Petitioner is maintainable in its present form?*
2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party?*

3. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?

5. ANALYSIS / REASONING:

5.1. Whether the Petition filed by the Petitioner is maintainable in its present form?

5.1.1. The Respondent had pleaded that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Members of Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986 and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.

Rule 7(2) – If the Petition does not comply with the requirements of Rule 6, the Speaker shall dismiss the Petition and intimate the Petitioner accordingly.

5.1.2. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned provision, the provision cannot be considered as complete. Therefore, the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. *Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. *The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii.
- iv.

5.1.3. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this Authority is required to be duly verified by party filing such a pleading.

5.1.4. In the present set of facts, the Petition, *per se*, may not have been affixed with a verification at its bottom, the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every statement that was made in the Petition and the said Affidavit was duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.5. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent. Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.6. The rule 7(7) of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.7. In this regard the following observation made by the supreme court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to

strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case”.

5.1.8. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.

5.1.9. The Respondent was provided all the material, digital links in a CD first time and in a pen drive second time and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral hearing to clarify his position on the Certificate under Section 65B of Indian Evidence Act, 1872. The Respondent has not made use of the opportunities provided. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and thereby the request for further time was rejected and the matter was reserved for Orders.

5.1.10. This Authority also take this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.11. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.12. Further, the Respondent has also pleaded that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings has rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and have cured the said defect, the Petitioner had concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same in the said circumstances, the said objection that Certificate under the Section 65B of the Evidence Act, 1872 was not filed by the Petitioner at the time of filing of the Petition has no relevance and thereby is rejected.

5.1.13. Consequent to the above analysis, it is extremely clear that the Petition/Pleading is duly verified and the Material filed along with the Petition is also duly certified and verified by the Petitioner through a

Certificate filed in compliance with Section 65B of the Indian Evidence Act, 1872. Having arrived at the above conclusions, it is held that the Petition in its present form is very much in compliance with the applicable rules and also Section 65B of the Evidence Act, 1872. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

- 5.2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?* As the said Issues are intertwined, this Authority dealing to analyse both the Issues simultaneously.
- 5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that newspaper articles cannot be relied upon as evidence in the absence of any witness. Further, the Respondent had also objected to a reference to various video clippings as published by the News Channels on the ground that the source of the same is not duly certified as is required under Section 65B of the Indian Evidence Act, 1872.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the news paper clippings and the vidcos which suggest the anti-political party activities of the Respondent, had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.2.3. ***For Example: At Para 3.10 (c) of the Petition, the Petitioner pleaded as follows:***

"c. It is further pertinent to note that having expressly supported the Opposition Party for a very long period, the Respondent culminated his support to the Opposition Party by joining the Opposition Party/Telugu Desam Party on 15th December, 2023. It is pertinent to note that the Respondent had not only attended a public meeting on the above said date but had also evidently joined the said political party along with his family by symbolically making the leader of the opposition party, Shri. Narachandrababu Naidu, accept his offer to join by covering him with a yellow colour shawl depicting the color of the Opposition Party Flag and giving the "khanduva" of TDP to his wife. It is humbly submitted that through the above act, the Respondent had publicly and evidently offered himself and joined into the opposition party despite still being a member of Legislative Party and thereby got defected and violated the relevant provisions of the Constitution of India and the relevant rules"

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Opposition Political Party on 15.12.2023 by meeting the Opposition Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Opposition Party activities.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that

the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, in most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *maneuvering* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it's imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in the Reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not appropriate supported by the certificates and the

verifications. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Opposition Party Leader and his activities extending support to the activities of the Opposition Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.

5.2.8. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority See no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.9. In the instant case some leading telugu news papers have reported that the Respondent has joined the Telugu Desam Party. Other media reports and photographs collaborate this. The videos also suggest his active

participation in the activities of TDP and his joining TDP. The Respondent has not given any proof of refuting/denying the press reports.

A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the has not done so nor has the Respondent given the proof of doing so.

5.2.10. The Supreme Court in a landmark judgment in the case of *Ravi S. Naik vs. Union of India* on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.11. In the background of the settled above propositions, this Authority propose to examine the Members of Andhra Pradesh Legislative

Assembly (Disqualification on ground of Defection) Rules, 1986. Under Para 6(1) the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.12. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority, a video evidencing the participation of the Respondent in the events organised by the opposition party established that the Respondent wilfully had joined hands with the opposition party which is detrimental to the political party on which the Respondent was elected as member.

5.2.13. Additionally, as per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* I record that the Respondent had indeed acted against its original political party and thereby also, the Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, this Authority have also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.2.14. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into TDP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules 1986, this Authority hold that Sri Mekapati Chandra Sekhar Reddy, member of Andhra Pradesh Legislative Assembly from 123-Udayagiri Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Mekapati Chandrasekhar Reddy, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No. 3 of 2024**BETWEEN:**

Sri Mudunuri Naga Raja Vara Prasada Raju,
S/o Satyanarayana Raju, Aged about 50 years
MLA From 58 Narasapuram Assembly Constituency and
Chief Whip in A.P. Legislative Assembly.

...Petitioner

AND

Sri Kotamreddy Sridhar Reddy,
S/o Kotamreddy Babi Reddy, Aged about 58 years
MLA from 118 Nellore Rural Assembly Constituency.

...Respondent

O R D E R

This petition is filed by the Sri Mudunuri Naga Raja Vara Prasada Raju, Government Chief Whip, YSR Congress Legislature party, the Petitioner, under Article 191 and X Schedule of the Constitution of India, r/w Rule 6 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having

been setup by the YSR Congress Political party from 118 – Nellore Rural Assembly Constituency and assumed office in 2019.

- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of B form that was allotted to him by the YSRCP and with the symbol of Fan that was allotted to the political party. The Petitioner has further contended that the Respondent had voluntarily acted in contravention to the principles of the YSRCP and had begun to function in affiliation to the opposition party and to give up his membership of the legislature party by which the Respondent was elected.
- 1.3. The Petitioner further submitted that on 25.07.2023, Opposition Party through paper publication on their letter head categorically and unequivocally appointed the Respondent in-charge for Nellore Rural Constituency and the Respondent voluntarily accepted the same and on 31st July, 2023, the Respondent had met Sri Nara Lokesh during “Yuva Galam Pada Yatra” event at Darsi Constituency, further, the said meet not only sheds light on his proactive approach with Leaders of the Opposition Party and its General Secretary – Telugu Desam Party Sri Nara Lokesh son of Leader of Opposition Party Sri Nara Chandrababu Naidu but also criticizes the works of the Legislature Party without any basis.
- 1.4. The Petitioner has also submitted that on 16th September, 2023, the Respondent had expressed his displeasure condemning on the act of the state arresting Sri Nara Chandrababu Naidu and the same was published

in print media and electronic media. Further, it is humbly submitted that a post is created with a tag “Babu Tho Nenu” and “No Celebrations On My Birthday” and the Respondent through his speech criticized the Legislature Party work and expressed interest in TDP and all the speeches were reflected in print media as well as electronic media and the Petitioner further stated that the Respondent joined the Opposition party by wearing “khanduva” of TDP and given speeches supporting the opposition Party Leader. This act evidently shows that the Respondent defected to the opposition party violating the relevant provisions of the Constitution of India, the Petitioner averred.

- 1.5. The Petitioner further submitted that the Respondent had indicated his allegiance to the actions of the TDP by propagating and making derogatory statements against YSRCP/Legislature Party which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such telecasts and publications evidencing thereby the Respondent has conclusively by his act and intent voluntarily given up his membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.
- 1.6. It is vehemently contended by the petitioner that the visible conduct of the Respondent undeniably amounts to voluntarily giving up his

membership of YSRCP. The Respondent contested elections and secured election from the YSRC Party and has defected to TDP. The Respondent, therefore, deserves to be disqualified from being continued as member of Legislative Assembly as mandated under para 2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri Kotamreddy Sridhar Reddy as the Respondent had voluntarily given up his membership of the political party by which the Respondent has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1. On 8th January 2024, Sri Mudunuri Naga Raja Vara Prasada Raju, Govt. Chief Whip, the Petitioner, has given the disqualification petition. The Respondent was served the notice on the same day through India Post to offer his comments within a week by providing all the material given by the Petitioner and through email as well.
- 2.2. On 16th January, 2024, the Respondent has stated that the Respondent was in receipt of the communication and requested to extend the time for offering his comments for 4 weeks. This Authority after considering his request extended the time for offering comments for one more week i.e. by 25th January 2024.
- 2.3. Thereafter, on 24th January 2024, the Respondent requested to extend the time again for 4 weeks for which I did not accede to and on 25th January 2024 notice was served to the Respondent to depose before this Authority

for oral hearing on 29th January 2024. The Respondent requested for details of the links provided in the annexure of the petition though the Respondent has already been provided all the digital links in a CD that contain the details. Both the Petitioner and the Respondent appeared on 29th January, 2024 and in the said proceedings, the Petitioner, on oath affirmed and restated the contents of the petition.

- 2.4. The Respondent, during the proceedings on 29th January, 2024, submitted that the Respondent was in need of original news paper clippings and the links provided to him were not opening in his computer or mobile. The Respondent further stated that the Respondent is not aware of legal intricacies of the case and requested to provide him 4 weeks time to engage an advocate to defend his case. The Respondent requested for more time to examine the petition. The Respondent, however, had submitted his written preliminary comments on the petition to this authority during the oral hearing.
- 2.5. In view of the above, the copy of the petition along with the annexures and a pen drive containing the videos and the soft copies of the contents in the links to the Media clippings were sent to him on 30th January 2024.
- 2.6. Besides, an opportunity was given to him to send his further comments by 5th February 2024. The Respondent was also informed that in case of any difficulty in opening the pen drive, the legislature secretariat would help. The Respondent was further requested to appear before this

authority at 12.00 Noon on Thursday, the 8th February 2024 for oral hearing on the petition. It was also stated that during the hearing the Petitioner would also be present so that both the parties may verify the material provided by each other, and authenticate.

2.7. On 5th February 2024, the Respondent has filed his further comments and on 8th February 2024, when the oral hearing of the Respondent and the Petitioner was slated, the Respondent did not appear and the Respondent has sent a letter requesting for further time. During the oral hearing, the Petitioner had filed the certificate under section 65B of the Evidence Act, 1872 affirming the source of the Hyperlinks and the details of the system on which the same were viewed and accessed on the World Wide Web/Internet.

2.8. Since the Respondent was not present during the oral hearing on 8th February 2024, the certificate filed by the Petitioner under Section 65B of the Evidence Act, was served upon the Respondent and his comments in relation to the same were invited. Further, the Respondent was also given an opportunity to visit the office and verify the documents/material. It was further informed that if the video links provided by the office through a pen drive/CD are not opening, the Respondent was advised to come to the office on Monday the 12th February 2024 for the purpose of examining the video links.

- 2.9. Further the Respondent was requested to appear before this Authority at 12 Noon on Monday, the 12th February 2024 for clarifications if any on the said certificate or any other matter in this regard and the Respondent was also informed that if the Respondent fails to appear on the said date, the petition will be finalized without any further opportunity. It is very important to record that the Respondent, despite receiving the above notice, chose not to appear for oral hearing on 12th February, 2024.
- 2.10. The Respondent was again called for oral hearing on 15th February, 2024 and informed him to make submissions w.r.t., the certificate filed by the Petitioner under Section 65B of Indian Evidence Act, 1872. The Respondent was also informed that in the event of failure to appear in person or through his counsel and make submissions, appropriate orders on the material available on the record would be delivered. However, the Respondent chose not to appear on 15th February 2024 too.
- 2.11. Having not appeared on 15.02.2024, the Respondent through a letter dt. 15.02.2024 has stated that he would need a certificate from the management of the publisher or electronic media stating that the photos published were genuine. Such a request of the Respondent appeared to be the delay tactics adopted by the Respondent merely to procrastinate the proceedings. However, in order to ensure that proper opportunity was duly offered, the Respondent was again called for final oral hearing on 19th February, 2024 by categorically informing that in the event of failure,

the matter would be decided on merits and the record. However, for the reasons known to the Respondent, the Respondent chose not to appear on 19th February, 2024 too and sent a letter wherein the Respondent has restated whatever the Respondent had mentioned in his letter dated 15.02.2024.

2.12. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other. At the outset, it is also noted that the Preliminary and the Final Submissions/Comments filed by the Respondent are already on record, this authority proceed to issue the following orders.

3. COMMENTS MADE BY THE RESPONDENT:

- 3.1. The Respondent during the course of oral hearing held on 29th January 2024, submitted his written preliminary comments on the petition.
- 3.2. In the preliminary comments, the Respondent denied the allegations made in the petition by the Petitioner as false and baseless and merely based on the newspaper reports and unverified video clippings. He has further added that a report in a newspaper is only heresy evidence and a newspaper is not one of the documents referred to in section 78 (2) of the evidence act, 1872. He has further stated that a newspaper item without

any further proof of what had actually happened through witnesses is of no value. He has, therefore, requested that proceedings against the Respondent shall not be continued, merely basing on the unsubstantiated newspaper reports/unverified video clippings.

- 3.3. The Respondent has also stated that the petition or the annexures have neither been signed nor verified by the Petitioner as prescribed in rule 6 and 7. The Respondent has also submitted that he was not supplied with the original video clippings of the statements said to have been made by him and he was provided only with the hyperlinks of the said videos, even without a certificate, identifying the electronic record and without a signature of the person who operates the relevant device. He has mentioned that the certificate under section 65B shall have to be provided for all such electronic record as that signature shall be evidence of the authenticity of the certificate.
- 3.4. The Respondent has further stated that the video links of YouTube are not working and he was unable to see the allegations and genuineness of the videos that are allegedly circulated in the social media.
- 3.5. The Respondent has also stated that non-denial of the news reports/publications cannot be treated as voluntarily giving up the membership under Para 2(1)(a) of the X Schedule of the Constitution of India.
- 3.6. The Respondent has thus requested that he may be submitted with all the copies of the alleged videos and the posting of the persons in social media

through a pen drive or through compact disc. The Respondent reserves the right to submit his comments once he was supplied with all the material that is being relied upon by the Petitioner in a proper format.

- 3.7. In addition to the above-mentioned preliminary submissions, the Respondent had also filed the further submissions. In the further comments, the Respondent had reiterated his submissions as were made in the preliminary comments and the Respondent failed to place on record any new facts or submissions.
- 3.8. It is pertinent to note that after reserving the matter for the pronouncement of the final orders, the Respondent submitted one letter dated 19.02.2024 wherein, the Respondent requested for furnishing original copies along with signed certificate of the authorised signatory and also requested for summoning the Petitioner for examination for oral hearing effectively and grant three weeks time to appear for final oral hearing.
- 3.9. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other. At the outset, it is also noted that the Preliminary and the Final Submissions/Comments filed by the Respondent are already on record, this Authority proceed to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether the Petition filed by the Petitioner is maintainable in its present form?*
2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of the Respondent can be inferred as voluntarily given up the membership of YSRC Party?*
3. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

5.1. Whether the Petition filed by the Petitioner is maintainable in its present form?

5.1.1. The Respondent had pleaded that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Members of Andhra Pradesh Legislative Assembly (disqualification on ground of defection) Rules, 1986 and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – *Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.*

Rule 7(2) – If the Petition does not comply with the requirements of Rule 6, the Speaker shall dismiss the Petition and intimate the Petitioner accordingly.

5.1.2. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned provision, the provision cannot be considered as complete. Therefore, the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. *Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. *The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii. *...*
- iv. *...*

5.1.3. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this authority is required to be duly verified by party filing such a pleading.

5.1.4. In the present set of facts, the Petition, *per se*, may not have been affixed with a verification at its bottom, the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every statement that was made in the Petition and the said Affidavit was duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.5. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent. Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.6. The rule 7(7) of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.7. In this regard the following observation made by the supreme court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

5.1.8. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in

line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.

5.1.9. The Respondent was provided all the material, digital links in a CD first time and in a pen drive second time and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral hearing to clarify his position on the Certificate under Section 65B of Indian Evidence Act, 1872. The Respondent has not made use of the opportunities provided. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and thereby the request for further time was rejected and the matter was reserved for Orders.

5.1.10. This authority also take this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary

delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.11. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.12. Further, the Respondent has also pleaded that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings has rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and has cured the said defect, the Petitioner had

concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same in the said circumstances, the said objection that Certificate under the Section 65B of the Evidence Act, 1872 was not filed by the Petitioner at the time of filing of the Petition has no relevance and thereby is rejected.

5.1.13. Consequent to the above analysis, it is extremely clear that the Petition/Pleading is duly verified and the Material filed along with the Petition is also duly certified and verified by the Petitioner through a Certificate filed in compliance with Section 65B of the Indian Evidence Act, 1872. Having arrived at the above conclusions, it is held that the Petition in its present form is very much in compliance with the applicable rules and also Section 65B of the Evidence Act, 1872. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

5.2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of the Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?* As the said Issues are intertwined, this Authority dealing to analyse both the Issues simultaneously.

5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that newspaper articles cannot be relied upon as evidence in the absence of any witness. Further, the Respondent had also objected to a reference to various video clippings as published by the News Channels on the ground that the source of the same is not duly certified as is required under Section 65B of the Indian Evidence Act, 1872.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the news paper clippings and the videos which suggest the anti-political party activities of the Respondent, had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.2.3. *For Example: At Para 3.10 (g) of the Petition, the Petitioner pleaded as follows:*

"...g. It Is further pertinent to note that having expressly supported the Opposition Party for a very long period, the Respondent culminated his support to the Opposition Party by Joining the Opposition Party/Telugu Desam Party. It is pertinent to note that the Respondent had not only attended a public meeting on the above said date but had also evidently joined the said political party. Further, the Respondent herein organizing public speeches and meeting by wearing "khanduva" of TDP and directly supporting opposition party and thereby got defected and violated the relevant provisions of the Constitution of India and the relevant rules..."

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Opposition Political Party on 25.07.2023 by meeting the Opposition Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Opposition Party activities.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed.

Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, in most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *maneuvering* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it is imperative that these evidence are duly considered and

evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in the Reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not appropriate supported by the certificates and the verifications. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Opposition Party Leader and his activities extending support to the activities of the Opposition Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.

5.2.8. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been

decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.9. In the instant case some leading telugu newspapers have reported that the Respondent has joined the Telugu Desam Party. Other media reports and photographs collaborate this. The videos also suggest his active participation in the activities of TDP and his joining TDP. The Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has the Respondent given the proof of doing so.

5.2.10. The Supreme Court in a landmark judgment in the case of *Ravi S. Naik vs. Union of India* on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a

House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

- 5.2.11. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (disqualification on ground of defection) Rules, 1986. Under Para 6(1) the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

- 5.2.12. It is pertinent to note that a request made by the Respondent, as reflected in the letter dated 19.02.2024, cannot be accommodated at this juncture. It is noted that such a request comes subsequent to the completion of arguments and the matter being reserved for the pronouncement of final orders. Any submission beyond this point disrupts the procedural flow of the case and undermines the principles of fairness. Moreover, such request causes potential delay tactics aimed at prolonging and drag on the proceedings unnecessarily. Therefore, the request for furnishing original copies along with signed certificates, as well as summoning the

Petitioner for oral examination and granting additional time, is hereby stands rejected.

5.2.13. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed.

In the allegations made in the Petition, the material produced by the Petitioner before this Authority, a video evidencing the participation of the Respondent in the events organised by the opposition party established that the Respondent wilfully had joined hands with the opposition party which is detrimental to the political party on which the Respondent was elected as member.

5.2.14. Additionally, as per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*

I record that the Respondent had indeed acted against his original political party and thereby also, the Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, this Authority also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.2.15. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into TDP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Kotamreddy Sridhar Reddy member of Andhra Pradesh Legislative Assembly from 118 Nellore Rural Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Kotamreddy Sridhar Reddy, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No. 4 of 2024**BETWEEN:**

Sri Mudunuri Naga Raja Vara Prasada Raju,
S/o Satyanarayana Raju, Aged about 50 years
MLA From 58 Narasapuram Assembly Constituency and
Chief Whip in A.P. Legislative Assembly.

... Petitioner

AND

Sri Anam Ramanarayana Reddy,
MLA from 122 Venkatagiri Assembly Constituency.

... Respondent

O R D E R

This petition is filed by the Sri Mudunuri Naga Raja Vara Prasada Raju, Government Chief Whip, YSR Congress Legislature party, the Petitioner, under Article 191 and X Schedule of the Constitution of India, r/w Rule 6 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having been setup by the YSR Congress Political party from 122 – Venkatagiri Assembly Constituency and assumed office in 2019.

1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of B form that was allotted to him by the YSRCP and with the symbol of Fan that was allotted to the political party. The Petitioner further stated that the Respondent had voluntarily acted in contravention to the principles of the YSRCP and had begun to function in affiliation to the opposition party and to give up his membership of the legislative party by which he was elected.

1.3. The Petitioner further submitted that the Respondent had evidently and publicly expressed his decision to affiliate with the opposition party. The said declaration evidently indicates that he had already reached a principled agreement to align himself with the TDP and on 13th June, 2023 in an interview, Respondent had explicitly revealed his pivotal role in coordinating Sri Nara Lokesh's "Yuva Galam Pada Yatra" event within his constituency and also stated that on 14th June, 2023, the Respondent through his speech criticized the YSRC Legislature Party work and expressed interest in TDP while participating in Yuva Galam programme of Sri Nara Lokesh who is the General Secretary of Opposition Party i.e., Telugu Desam Party and on 9th September, 2023, the Respondent had put up a personal statement expressing his displeasure on the act of the State arresting Sri Nara Chandrababu Naidu.

- 1.4. Further, the Petitioner has stated that the Respondent joined the opposition party by wearing the Khanduva of TDP directly supporting the opposition party. This act evidently shows that the Respondent defected to the opposition party violating the relevant provisions of the Constitution of India.
- 1.5. Further, the Petitioner also stated that the Respondent had indicated his allegiance to the actions of the TDP by propagating and making derogatory statements against YSRCP/Legislature Party which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers. The Respondent has neither denied nor controverted the contents of such telecasts and publications evidencing thereby the Respondent has conclusively by his act and intent voluntarily given up his membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.
- 1.6. It is vehemently contended by the Petitioner that the visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of YSRCP. The Respondent contested elections and secured election from the YSRC Party and has defected to TDP. The Respondent, therefore, deserves to be disqualified from being continued as member of Legislative Assembly as mandated under para 2(1)(a) of the X Schedule

of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri Anam Ramanarayana Reddy as the Respondent had voluntarily given up his membership of the political party by which the Respondent has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1. On 8th January 2024, Sri Mudunuri Naga Raja Varaprasada Raju, Govt. Chief Whip, the Petitioner has given the disqualification petition. The Respondent was served the notice on the same day through India Post to offer his comments within a week by providing all the material given by the Petitioner and through email as well.
- 2.2. On 16th January, 2024 the Respondent has submitted that he was in receipt of the communication and requested to extend the time for offering his comments for 4 weeks. I have after considering his request extended the time for offering comments for one more week i.e. by 25th January 2024.
- 2.3. Thereafter, on 24th January 2024, the Respondent requested to extend the time again for 4 weeks for which this tribunal did not accede to and on the same day notice was served to the Respondent to depose before this Authority for oral hearing on 29th January 2024. The Respondent requested for details of the links provided in the annexure of the petition though the Respondent has already been provided all the digital links in a CD that contain the details. Both the Petitioner and the Respondent

appeared on 29th January, 2024 and in the said proceedings, the Petitioner, on oath affirmed and restated the contents of the petition.

- 2.4. The Respondent, during the proceedings on 29th January, 2024, submitted that the Respondent was in need of original news paper clippings and the links provided to him were not opening in his computer or mobile. The Respondent further stated that he is not aware of legal intricacies of the case and requested to provide him 4 weeks time to engage an advocate to defend his case. The Respondent requested for more time to examine the petition. The Respondent, however, had submitted his written preliminary comments on the petition to me during the oral hearing.
- 2.5. In view of the above, the copy of the petition along with the annexures and a pen drive containing the videos and the soft copies of the contents in the links to the Media clippings were sent to him on 30th January 2024.
- 2.6. Besides, an opportunity was given to him to send his further comments by 5th February 2024. The Respondent was also informed that in case of any difficulty in opening the pen drive, the legislature secretariat would help. The Respondent was further requested to appear before this Authority at 12.30 P.M. on Thursday the 8th February 2024 for oral hearing on the petition. It was also stated that during the hearing the Petitioner would also be present so that both the parties may verify the material provided by each other, and authenticate.

2.7. On 5th February 2024, the Respondent has filed his further comments and on, 8th February 2024, when the oral hearing of the Respondent and the Petitioner was slated, the Respondent appeared before this Authority and was handed over the affidavit, filed by the Petitioner, under Section 65B of the Indian Evidence Act, 1872. The Respondent stated that he would need a certificate from the management of the print media or electronic media that the photos published were genuine which appeared to me that it is intended to procrastinate. The Respondent was called for final oral hearing on 19th February, 2024 stating therein that if he fails to appear in the final oral hearing the matter would be decided on merits. However, the Respondent did not appear on 19th February, 2024 too.

3. COMMENTS MADE BY THE RESPONDENT :

- 3.1. The Respondent during the course of oral hearing held on 29th January 2024, submitted his written preliminary comments on the petition.
- 3.2. In the preliminary comments, the Respondent denied the allegations made in the petition by the Petitioner as false and baseless and merely based on the newspaper reports and unverified video clippings. The Respondent has further added that a report in a newspaper is only hearsay evidence and a newspaper is not one of the documents referred to in section 78 (2) of the evidence act, 1872. The Respondent has further stated that a newspaper item without any further proof of what had actually happened through witnesses is of no value. The Respondent has therefore requested

that proceedings against the Respondent shall not be continued, merely basing on the unsubstantiated newspaper reports/unverified video clippings.

- 3.3. The Respondent has also stated that the petition or the annexures have neither been signed nor verified by the Petitioner as prescribed in rule 6 and 7. The Respondent has also submitted that he was not supplied with the original video clippings of the statements said to have been made by him and he was provided only with the hyperlinks of the said videos, even without a certificate, identifying the electronic record and without a signature of the person who operates the relevant device. He has mentioned that the certificate under section 65B shall have to be provided for all such electronic record as that signature shall be evidence of the authenticity of the certificate.
- 3.4. The Respondent has further stated that the video links of YouTube are not working and the Respondent was unable to see the allegations and genuineness of the videos that are allegedly circulated in the social media.
- 3.5. The Respondent has also stated that non-denial of the news reports/publications cannot be treated as voluntarily giving up the membership under Para 2(1)(a) of the X Schedule of the Constitution of India.
- 3.6. The Respondent has thus requested that the Respondent may be submitted with all the copies of the alleged videos and the posting of the persons in social media through a pen drive or through compact disc. The

Respondent reserves the right to submit his comments once the Respondent was supplied with all the material that is being relied upon by the Petitioner in a proper format.

- 3.7. In addition to the above-mentioned preliminary submissions, the Respondent had also filed the further submissions. In the further comments, the Respondent had reiterated his submissions as were made in the preliminary comments and the Respondent failed to place on record any new facts or submissions.
- 3.8. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other. At the outset, it is also noted that the Preliminary and the Final Submissions/Comments filed by the Respondent are already on record, this Authority proceed to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether the Petition filed by the Petitioner is maintainable in its present form?*

2. Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of the Respondent can be inferred as voluntarily given up the membership of YSRC Party?
3. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?

5. ANALYSIS / REASONING:

5.1. Whether the Petition filed by the Petitioner is maintainable in its present form?

5.1.1. The Respondent had pleaded that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Members of Andhra Pradesh Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986 and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – *Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings.*

Rule 7(2) – *If the Petition does not comply with the requirements of Rule 6, the Speaker shall dismiss the Petition and intimate the Petitioner accordingly.*

5.1.2. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned

provision, the provision cannot be considered as complete. Therefore, the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. *Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. *The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii.
- iv.

5.1.3. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this Tribunal is required to be duly verified by party filing such a pleading.

5.1.4. In the present set of facts, the Petition, *per se*, may not have been affixed with a verification at its bottom, the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every statement that was made in the Petition and the said Affidavit was duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are

duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.5. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent. Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.6. The rule 7(7) of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.7. In this regard the following observation made by the supreme court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC I)* is relevant:

“The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against

an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

5.1.8. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.

5.1.9. The Respondent was provided all the material, digital links in a CD first time and in a pen drive second time and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral

hearing to clarify his position on the Certificate under Section 65B of Indian Evidence Act, 1872. The Respondent has not made use of the opportunities provided. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and thereby the request for further time was rejected and the matter was reserved for Orders.

- 5.1.10. This Authority also take this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

- 5.1.11. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their

submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

- 5.1.12. Further, the Respondent has also pleaded that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings have rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and have cured the said defect, the Petitioner had concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same in the said circumstances, the said objection that Certificate under the Section 65B of the Evidence Act, 1872 was not

filed by the Petitioner at the time of filing of the Petition has no relevance and thereby is rejected.

5.1.13. Consequent to the above analysis, it is extremely clear that the Petition/Pleading is duly verified and the Material filed along with the Petition is also duly certified and verified by the Petitioner through a Certificate filed in compliance with Section 65B of the Indian Evidence Act, 1872. Having arrived at the above conclusions, it is held that the Petition in its present form is very much in compliance with the applicable rules and also Section 65B of the Evidence Act, 1872. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

5.2. *Whether the Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of the Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed? As the said Issues are intertwined, this Authority dealing to analyse both the Issues simultaneously.*

5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that newspaper articles cannot be relied upon as evidence in the absence of any witness. Further, the Respondent had also objected to

a reference to various video clippings as published by the News Channels on the ground that the source of the same is not duly certified as is required under Section 65B of the Indian Evidence Act, 1872.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the news paper clippings and the videos which suggest the anti-political party activities of the Respondent, had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.2.3. *For Example: At Para 3.10 (e) of the Petition, the Petitioner pleaded as follows:*

“...e. It is further pertinent to note that having expressly supported the Opposition Party for a very long period; the Respondent culminated his support to the Opposition Party by joining the Opposition Party/Telugu Desam Party. It is pertinent to note that the Respondent had not only attended a public meeting on the above said date but had also evidently joined the said political party. Further, the Respondent herein organizing public speeches and meeting by wearing “khanduva” of TDP and directly supporting opposition party and thereby got defected and violated the relevant provisions of the Constitution of India and the relevant rules.

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Opposition Political Party on 16.06.2023 by meeting Sri Nara Lokesh, Son of Opposition Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Opposition Party activities.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that

the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, in most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *maneuvering* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it is imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority has looked into the corresponding response of the Respondent in the Reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not appropriate supported by the certificates and the

verifications. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Opposition Party Leader and his activities extending support to the activities of the Opposition Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.

5.2.8. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.9. In the instant case some leading telugu newspapers have reported that the Respondent has joined the Telugu Desam Party. Other media reports and photographs collaborate this. The videos also suggest his active

participation in the activities of TDP and his joining TDP. The Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has the Respondent given the proof of doing so.

5.2.10. The Supreme Court in a landmark judgment in the case of *Ravi S. Naik vs. Union of India* on 9th February, 1994, has amply clarified the term "voluntarily given up the membership" wherein the court had inter alia observed:

"The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party "if he has voluntarily given up his membership" are not synonymous with "resignation" and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs."

5.2.11. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (disqualification on ground of defection) Rules, 1986. Under

Para 6(1) the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.12. On the basis of evidence adduced by the Petitioner this Authority have no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority, a video evidencing the participation of the Respondent in the events organised by the opposition party established that the Respondent wilfully had joined hands with the opposition party which is detrimental to the political party on which the Respondent was elected as member.

5.2.13. Additionally, as per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* I record that the Respondent had indeed acted against his original political party and thereby also, the Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, I have also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.2.14. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into TDP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Anam Ramanarayana Reddy member of Andhra Pradesh Legislative Assembly from 122 – Venkatagiri Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Anam Ramanarayana Reddy, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No.5 of 2024**BETWEEN:**

Dr. Dola Sree Bala Veeranjaneya Swamy,
Member of Legislative Assembly (MLA),
Elected from 110 - Kondapi Constituency,
Prakasam District, Whip,
Telugu Desam Legislature Party (TDP),
1-143, Siddhantigari House, Thurpu Naidupalem,
Tangutur (M), Prakasam District,
Andhra Pradesh - 523272.

... Petitioner

AND

Sri. Karanam Balarama Krishna Murthy,
S/o. Late.K.Venkateswarlu,
Elected from 106 - Chirala Constituency,
H.No.58-9-6(1), Kamasastry Street,
Santhapeta, Ongole, Prakasam District,
Andhra Pradesh - 523001

... Respondent

O R D E R

This petition is filed by Dr. Dola Sree Bala Veeranjaneya Swamy,
Member of Legislative Assembly (MLA), elected from 110 - Kondapi
Constituency, Prakasam District, Whip, Telugu Desam Legislature Party (TDP),
under Article 191 and X Schedule of the Constitution of India, R/w Rule 6 of

the Members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having been setup by the Telugu Desam Legislature Party (TDP) from 106 – Chirala Assembly Constituency and assumed office in 2019.
- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of 'B form' that was allotted to Respondent by the Telugu Desam Party (TDP) and with the party Manifesto and Statesmanship of Party leadership on the symbol of 'Cycle' that was allotted to the political party i.e., Telugu Desam Party. The Petitioner has further stated that the Respondent had voluntarily acted in contravention to the principles of the Telugu Desam Party (TDP) and had begun to function in affiliation to the Ruling Party and to give up his membership of the political party by which he was elected.
- 1.3. The Petitioner further submitted that the Respondent is openly sailing with the Hon'ble Chief Minister and other leaders of the Ruling Party i.e., YSRCP. Also, vehement reliance is placed on the evidences from the news telecasts in YoYo TV dated 12.03.2020, under the caption

“Karanam Balaramki kanduva Kappani Jagan, Kodukuki kanduva kappi partilo cherchukunna Jagan” and news Telecast in I Dream TV dated 12.03.2020, under caption “YSRCP Party Lo Cherina Senior TDP Leader Karanam Balaram” and the news clipping published in Sakshi Newspaper dated 13.03.2020, under caption “Idee Sankshema Palana” and the news clipping published in Sakshi Newspaper dated 09.06.2020, under caption “CM YS Jagan Yadadi Palana Besh” and the news Telecast in PRIME 9 TV dated 09.06.2020, under caption “Babu Drama” and the news Telecast in hmtv dated 10.06.2020, under caption “Party Maradaniki Pradhana Karanalu Cheppina Karanam Balaram” were all proofs of defection. The petitioner also stated that the respondent while participating in the Assembly discussions opposed the policies of TDP and its leadership and prayed for disqualification of the Respondent. All of these acts evidently show that the respondent defected to the ruling party violating the relevant provisions of the Constitution of India, the petitioner averred.

1. The petitioner further submitted that the Respondent had indicated his allegiance to the actions of the YSRCP by propagating and making derogatory statements against the Telugu Desam Party (TDP) which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such

telecasts and publications evidencing thereby the respondent has conclusively by his act and intent voluntarily given up his membership of Telugu Desam Party (TDP) within the meaning of the said expression in Para 2(1)(a) of the X Schedule of the Constitution of India.

- 1.5. The visible conduct of the respondent undeniably amounts to voluntarily giving up his membership of Telugu Desam Party (TDP). He contested elections and secured election from the Telugu Desam Party (TDP) and therefore the respondent has defected to YSRCP and he deserves to be disqualified from being continued as Member of Legislative Assembly (MLA) as mandated under Para 2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the respondent i.e, Sri. Karanam Balarama Krishna Murthy, as he had voluntarily given up his membership of the political party by which he has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY :

- 2.1. On 12th January 2024, Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly, Whip, Telugu Desam Legislature Party, the Petitioner, has submitted the disqualification petition. The Respondent was served the notice on 18.01.2024 through India Post to offer his comments within a week by providing all the material given by the petitioner and through email as well.

- 2.2. The Respondent did not respond to it. Again, the Respondent was served notice to appear before this Authority on 29th January, 2024 and he did not appear for oral hearing. On 29th January, 2024, the Petitioner during the oral hearing reiterated the contents of the Petition and requested to disqualify the Respondent. The Newspaper clippings and the digital links established that he has defected and would incur disqualification.
- 2.3. In his letter dated 05.02.2024, the Respondent has requested to grant extension of time for the hearing by four weeks allowing him the necessary period to compile and submit his comments along with permission to bring a lawyer with him for oral hearing. He was allowed to engage a counsel to assist him in the hearing.
- 2.4. The Respondent did not appear before this Authority for the oral hearings held on 08.02.2024 and 15.02.2024. The Respondent was served notice on 16.02.2024 to appear before this Authority for final oral hearing scheduled to be held on 19th February, 2024. The Respondent on 17th February, 2024 filed his Counter Submissions /Comments. The Respondent did not appear before this Authority for the final oral hearing held on 19.02.2024 but the petitioner appeared and reiterated the request to disqualify the Respondent.

3. COMMENTS MADE BY THE RESPONDENT:

3.1. The Respondent in his Counter Submissions stated that while the X Schedule of the Constitution aimed to curb political defections, it has inadvertently led to a reduction in the autonomy and independence of elected representatives. The Respondent also stated that the Schedule's stringent anti-defection provisions often compel lawmakers to toe the party line, even when it conflicts with their constituents' interests or their own principles. This can undermine the essence of representative democracy by stifling dissent and reducing legislative debates to mere formalities. Furthermore, the present Petitioner is misusing this law of Tenth Schedule at the behest of the political party i.e. TDP (Telugu Desam Party) to consolidate power and stifle dissent within their ranks. In TDP (Telugu Desam Party), the leadership has exploited the threat of disqualification under the anti- defection law to coerce legislators like the present Respondent into compliance, thereby dictating the Respondent herein to compromise freedom of conscience and independent decision-making. That the democratic principles, legislative independence and political accountability are the highest Paramount and any disqualification must adhere to the said principles.

3.2. The Respondent also stated that he hereby denies the said events as alleged in the defection petition and evidence that establish the Anti-Party Activities, which are said to be allegedly in contra to the Paragraph

2(1)(a) and 2(3)(4) of the Tenth Schedule of the Constitution of India, as narrated in Para-No. 8 of the Petition. The purported/unsubstantiated evidence is not legally admissible and are created and brought into existence for the purpose of filing this Petition. That the said veracity of these documents is strictly doubtful and the same maybe put to appropriate test. The Petitioner must prove the contents of the said documents and electronic evidence, along with their accuracy and admissibility, as they are not in their original form and are susceptible to manipulation. The Respondent, however, is not admitting the contents of the documents filed along with the Petition. The Respondent had denied the allegations made by the Petitioner and contended that the same were false, baseless and the print/electronic evidence and questioned authenticity and is susceptible to manipulation. The Respondent also stated that he hereby denies the said events as alleged in the defection petition and evidence that establish the Anti-Party Activities, which are said to be allegedly in contra to the Paragraph 2(1)(a) and 2(3)(4) of the Tenth Schedule of the Constitution of India, as narrated in Para-No. 8 of the petition. The purported/unsubstantiated evidence is not legally admissible and are created and brought into existence for the purpose of filing this Petition. That the said veracity of these documents is strictly doubtful and the same maybe put to appropriate test. The Petitioner must prove the contents of the said documents and electronic evidence, along

with their accuracy and admissibility, as they are not in their original form and are susceptible to manipulation. The Respondent, however, is not admitting the contents of the documents filed along with the petition.

- 3.3. In addition to the above-mentioned submissions, the Respondent had miserably failed to place on record any new facts or plausible counter submissions on the material facts of the petition except stating some generalised principles on democracy and legal aspects about 'defection laws'.
- 3.4. Having regard to the ample opportunities given to both sides, after receiving the Comments/Counter Submissions on behalf of the Respondent on record, this Authority proceed to issue the following orders:

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?*
2. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?
- 5.1.1. The Petitioner in the petition had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the Telugu Desam Party. One Leading newspaper has reported that the Respondent while praising the working of the present state government criticized the previous chief minister under whose party he has been elected now. It was also reported that in the presence of the Respondent, the chief minister has welcomed the son of the respondent to join the YSRC party. Some news channels have also reported that the Respondent has joined the YSRC party.
- 5.1.2. In view of this Authority, the newspaper reports alone cannot be taken as substantive evidence, and at best can be taken as providing reliable circumstantial evidence, unless proved otherwise. However, in the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then the least that was expected of the Respondent was to forthwith deny the same and issue clarification /explanation in that regard. The Respondent has neither denied the news reports nor has he given the proof of denying

the media reports. It seems the Respondent was complacent with news reports.

5.1.3. The contentions raised by the Respondent, as outlined in Paragraphs 5 through 12 of the submission, are duly noted and considered. However, it is imperative to clarify the purpose and purport of Article 191 and the Tenth Schedule of the Constitution of India, along with Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986. Article 191 of the Constitution of India pertains to the disqualification of members. It enunciates that a person shall be disqualified for being chosen as, and for being, a Member of the Legislative Assembly or Legislative Council of a State if they hold any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder. The Tenth Schedule of the Constitution, popularly known to be the 'Anti-Defection Law', was incorporated to address the issue of political defections which could potentially undermine democratic principles and the sanctity of the electoral process. It seeks to curb the evil of political defections by providing for the disqualification of members who defect from their original political parties. The Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986, establishes the procedure for filing a petition for

disqualification on the grounds of defection. It mandates that the petition must satisfy the grounds for disqualification as provided under the Tenth Schedule.

- 5.1.4. The contentions raised by the Respondent challenge the applicability of legal provisions and attempt to cast doubt on the authenticity and admissibility of the evidence presented by the petitioner. However, it is essential to recognize that the Tenth Schedule was enacted to maintain the purity of democratic processes and to ensure that elected representatives uphold the mandate given by the electorate. The Respondent's argument regarding the alleged reduction in the autonomy of elected representatives and the misuse of 'anti-defection laws' by political parties may be relevant for political discourse but are not determinative before this forum for evaluation of the present case.
- 5.1.5. The Respondent's contention regarding the failure of the Petitioner to provide documentary evidence of authorization and the objectives of the political party does not negate the substantive allegations of defection raised in the petition. Despite, the same were well served and received by the Respondent and his Counsel. Also, even assuming that there is no documentation that does not by itself invalidate the grounds for initiating disqualification proceedings under the Tenth Schedule. In the present case, there is ample evidence placed on record by the petitioner. But there seems to be no plausible remarks/counter submission to that effect except

by vaguely doubting the veracity of those incriminating material against the Respondent. Therefore, considering the foregoing analysis, the contentions raised by the respondent do not sufficiently undermine the Petitioner's case for initiating disqualification proceedings under the Tenth Schedule.

- 5.1.6. The rule 7(7) of the members of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person. In this regard the following observation made by the Hon'ble Supreme Court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and

totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

- 5.1.7. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.
- 5.1.8. This Authority also takes this opportunity to address one issue before going further. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Hon'ble Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where

the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

- 5.1.9. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.
- 5.1.10. Based on the evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the respondent has been duly informed. In the material produced by the petitioner before this Authority a CD evidencing the participation of the respondent in the events organized by the Ruling Party established that the respondent wilfully had joined hands with the Ruling party which is detrimental to the political party on which he was elected as member. This Authority also received the comments from the Leader of the TDP (Sri.Nara Chandrababu Naidu) wherein he has stated that after due deliberations from their end, the whip of Telugu

Desam Legislature Party has filed the present petition against the Respondent. The opportunity given to the Respondent to rebut the evidence so presented by the Petitioner was not availed, for reasons best known to the Respondent himself.

- 5.2. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?**
- 5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and having voluntarily given up membership of the TDP Party. The Respondent has objected to the use of evidence provided by the Petitioner contending that it is not legally admissible and the veracity of the documents is doubtful.
- 5.2.2. A reading of the above Paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Ruling Political Party by meeting the Hon'ble Chief Minister. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Ruling Party activities.
- 5.2.3. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instances where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels,

recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

- 5.2.4. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials.

Hence, it's imperative that these evidences are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

- 5.2.5. Upon reading the above allegations, this Authority have looked into the corresponding response of the Respondent in his Counter Submissions filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not admissible and of doubtful veracity. Upon perusal of the record, it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Hon'ble Chief Minister/Leader of the Ruling Party and his activities extending support to the activities of the Ruling Party.
- 5.2.6. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.
- 5.2.7. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in my view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are

the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

- 5.2.8. In the instant case, some leading Telugu newspapers have reported that the Respondent has joined hands with Ruling Party. Other media reports and photographs corroborate to this. The videos also suggest his active participation in the activities of YSRCP and his joining YSRCP. Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has Respondent given the proof of doing so.
- 5.2.9. The Hon'ble Supreme Court in a landmark judgment in the case of Ravi S. Naik vs. Union of India on 9th February 1994, has amply clarified the term "voluntarily given up the membership" wherein the court had inter alia observed:

"The said Paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his

membership of such political party) provides for disqualification of a member of a House belonging to a political party“ if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.10. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (Disqualification on the Ground of Defection) Rules, 1986. Under Para 6(1), the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.11. On the basis of the incriminating evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organized by the Ruling party established that the Respondent wilfully had joined hands with the Ruling Party which is detrimental to the political party on which Respondent was elected as member.

5.2.12. Further, it is imperative to record that in spite of several opportunities given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) it is categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into YSRCP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under Para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under Para 6 of the X Schedule of the Constitution & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Karanam Balarama Krishna Murthy, member of Andhra Pradesh Legislative Assembly from 106 –Chirala Assembly Constituency, for the reasons stated herein above, has incurred disqualification under Para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Karanam Balarama Krishna Murthy, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No.6 of 2024**BETWEEN:**

Dr. Dola Sree Bala Veeranjaneya Swamy,
Member of Legislative Assembly (MLA),
Elected from 110 - Kondapi Constituency,
Prakasam District, Whip,
Telugu Desam Legislative Party (TDP),
1-143, Siddhantigari House, Thurpu Naidupalem,
Tangutur (M), Prakasam District,
Andhra Pradesh - 523272.

... Petitioner

AND

Sri Maddali Giridhara Rao, S/o Sri M.Subbarao,
Member of Legislative Assembly,
Elected from 94 - Guntur West Constituency,
D.No.24-10-52, R Agraaharam, 7th Line, Guntur,
Guntur District, Andhra Pradesh-522003.

... Respondent

O R D E R

This petition is filed by Dr. Dola Sree Bala Veeranjaneya Swamy,
Member of Legislative Assembly (MLA), Elected from 110 - Kondapi
Constituency, Prakasam District, Whip, Telugu Desam Legislature Party (TDP),
under Article 191 and X Schedule of the Constitution of India, R/w Rule 6 of
the Members of the Andhra Pradesh Legislative Assembly (Disqualification on
ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having been setup by the Telugu Desam Legislature Party (TDP) from 94 - Guntur West, Assembly Constituency and assumed office in 2019.
- 1.2. The Petitioner also stated that the respondent got elected as MLA on the basis of 'B form' that was allotted to him by the Telugu Desam Party (TDP) and with the party Manifesto and Statesmanship of party Leadership on the symbol of 'Cycle' that was allotted to the political party. He has further stated that the Respondent had voluntarily acted in contravention to the principles of the Telugu Desam Party (TDP) and had begun to function in affiliation to the Ruling Party and to give up his membership of the party by which he was elected.
- 1.3. The Petitioner alleged that the news Telecast in NTV dated under caption "TDP lo Oka samajika varganike gurthimpu" and the news clipping published in Andhra Jyothy Newspaper dated 31-12-2019, under caption "YCP loki Maddali" and the news clipping published in Eenadu Newspaper dated 31-12-2019, under caption "Vamsi batalo Maddali" and the news clipping published in Sakshi Newspaper dated 31-12-2019,

under caption "Rajadhani rythulanu Rechagodutunnaru" and the news Telecast in TV 9 dated 31-12-2019, under caption "Vamsi Batalone Giri" and the news Telecast in Sakshi TV dated 31-12-2019, under caption "chandrababuku bahirangalekha" were all proofs of defection.

1.4. The Petitioner also stated that the Respondent while participating in the Assembly discussions opposed the policies of TDP and its leadership and indicated his allegiance to the actions of the YSRCP by propagating and making derogatory statements against the Telugu Desam Party (TDP) which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such telecasts and publications evidencing thereby the Respondent has conclusively by his act and intent voluntarily given up his membership of Telugu Desam Party (TDP) within the meaning of the said expression in Para 2(1)(a) of the X Schedule of the Constitution of India.

1.5. The visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of Telugu Desam Party (TDP). He contested elections and secured election from the Telugu Desam Party (TDP) and therefore the Respondent has defected to YSRCP and he deserves to be disqualified from being continued as Member of Legislative Assembly (MLA) as mandated under Para2(1)(a) of the X Schedule of the

Constitution of India. The Petitioner prayed to disqualify the respondent i.e. Sri Maddali Giridhara Rao, as he had voluntarily given up his membership of the political party by which he has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1. On 12th January 2024, Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly, Whip, Telugu Desam Legislature Party, the Petitioner, has given the disqualification petition. The Respondent was served the notice on 18.01.2024 through India Post to offer his comments within a week by providing all the material given by the Petitioner and through email as well.
- 2.2. The Respondent did not respond to it. Again, the Respondent was served notice to appear before this Authority on 29th January, 2024 and he did not appear for oral hearing. On 29th January, 2024, the Petitioner during the oral hearing reiterated the contents of the Petition and requested to disqualify the Respondent. The Newspaper clippings and the digital links established that he has defected and would incur disqualification.
- 2.3. In his letter dated 05.02.2024, the Respondent has requested to grant extension of time for the hearing by four weeks allowing him the necessary period to compile and submit his comments along with permission to bring a lawyer with him for oral hearing. He was allowed to engage a counsel to assist him in the hearing.

2.4. The Respondent did not appear before this Authority for the oral hearings held on 08.02.2024 and 15.02.2024. The Respondent was served notice on 16.02.2024 to appear before this Authority for final oral hearing scheduled to be held on 19th February, 2024. The Respondent on 16th February, 2024 filed his Counter Submissions /Comments. The Respondent did not appear before this Authority for the final oral hearing held on 19.02.2024 but the petitioner appeared and reiterated the request to disqualify the Respondent.

3. COMMENTS MADE BY THE RESPONDENT:

3.1. The respondent in his counter submissions stated that while the X Schedule of the Constitution aimed to curb political defections, it has inadvertently led to a reduction in the autonomy and independence of elected representatives. The respondent also stated that the Schedule's stringent anti-defection provisions often compel lawmakers to toe the party line, even when it conflicts with their constituents' interests or their own principles. This can undermine the essence of representative democracy by stifling dissent and reducing legislative debates to mere formalities. Furthermore, the present petitioner is misusing this law of Tenth Schedule at the behest of the political party i.e. TDP (Telugu Desam Party) to consolidate power and stifle dissent within their ranks. In TDP (Telugu Desam Party), the leadership has exploited the threat of

disqualification under the anti- defection law to coerce legislators like the present respondent into compliance, thereby dictating the respondent herein to compromise freedom of conscience and independent decision-making. That the democratic principles, legislative independence, and political accountability are the highest Paramount, and any disqualification must adhere to the said principles.

- 3.2. The respondent also stated that he denies the said events as alleged in the defection petition and evidence that establish the Anti-Party Activities, which are said to be allegedly in contra to the Paragraph 2(1)(a) and 2(3)(4) of the Tenth Schedule of the Constitution of India, as narrated in Para-No. 8 of the petition. The purported /unsubstantiated evidence is not legally admissible and is created and brought into existence for the purpose of filing this petition. That the said veracity of these documents is strictly doubtful and the same may be put to appropriate test. The petitioner must prove the contents of the said documents and electronic evidence, along with their accuracy and admissibility, as they are not in their original form and are susceptible to manipulation. The respondent, however, is not admitting the contents of the documents filed along with the petition. The Respondent had denied the allegations made by the petitioner and contended that the same were false, baseless and the print/electronic evidence shown is of doubtful authenticity and is susceptible to manipulation.

- 3.3. In addition to the above-mentioned submissions, the Respondent had miserably failed to place on record any new facts or plausible counter submissions on the material facts of the petition except stating some generalised principles on democracy and legal aspects about 'defection laws'.
- 3.4. Having regard to the ample opportunities given to both sides, after receiving the Comments/Counter Submissions on behalf of the Respondent on record, this Authority proceed to issue the following orders:

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?*
2. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. **Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?**

5.1.1. The Petitioner in the petition had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the Telugu Desam Party. A leading newspaper has reported that the Respondent has joined the YSRC party. He met the Hon'ble Chief Minister/Leader of the Ruling Party and extended his support. It was also reported that he criticized the Leader of the Telugu Desam party from which he was elected. He also stated that the Telugu Desam leaders are instigating the farmers of the capital region for their own selfish needs.

5.1.2. In view of this Authority, the newspaper reports alone cannot be taken as substantive evidence, and at best can be taken as providing reliable circumstantial evidence, unless proved otherwise. However, in the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard. The Respondent has neither denied the news reports nor has he given the proof of denying the media reports. It seems the Respondent was complacent with news reports.

5.1.3. The contentions raised by the respondent, as outlined in Paragraphs 5 through 12 of the submission, are duly noted and considered. However, it is imperative to clarify the purpose and purport of Article 191 and the Tenth Schedule of the Constitution of India, along with Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986. Article 191 of the Constitution of India pertains to the disqualification of members. It enunciates that a person shall be disqualified for being chosen as, and for being, a Member of the Legislative Assembly or Legislative Council of a State if they hold any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder. The Tenth Schedule of the Constitution, popularly known to be the 'Anti-Defection Law', was incorporated to address the issue of political defections which could potentially undermine democratic principles and the sanctity of the electoral process. It seeks to curb the evil of political defections by providing for the disqualification of members who defect from their original political parties. The Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986, establishes the procedure for filing a petition for disqualification on the grounds of defection. It mandates that the petition

must satisfy the grounds for disqualification as provided under the Tenth Schedule.

- 5.1.4. The contentions raised by the respondent challenge the applicability of legal provisions and attempt to cast doubt on the authenticity and admissibility of the evidence presented by the Petitioner. However, it is essential to recognize that the Tenth Schedule was enacted to maintain the purity of democratic processes and to ensure that elected representatives uphold the mandate given by the electorate. The respondent's argument regarding the alleged reduction in the autonomy of elected representatives and the misuse of 'anti-defection laws' by political parties may be relevant for political discourse but are not determinative before this Authority for evaluation of the present case.
- 5.1.5. The Respondent's contention regarding the failure of the Petitioner to provide documentary evidence of authorization and the objectives of the political party does not negate the substantive allegations of defection raised in the petition. Despite, the same were well served and received by the Respondent and his Counsel. Also, even assuming that there is no documentation that does not by itself invalidate the grounds for initiating disqualification proceedings under the Tenth Schedule. In the present case, there is ample evidence placed on record by the petitioner. But there seems to be no plausible remarks/counter submission to that effect except by vaguely doubting the veracity of those incriminating material against

the Respondent. Therefore, considering the foregoing analysis, the contentions raised by the Respondent do not sufficiently undermine the Petitioner's case for initiating disqualification proceedings under the Tenth Schedule.

- 5.1.6. The rule 7(7) of the members of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person. In this regard the following observation made by the Hon'ble Supreme Court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs. State of Haryana and others (2006 11 SCC I)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they

are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

- 5.1.7. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.
- 5.1.8. This Authority also takes this opportunity to address one issue before going further. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Hon'ble Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.9. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.10. Based on the evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the respondent has been duly informed. In the material produced by the Petitioner before this Authority a CD evidencing the participation of the respondent in the events organized by the Ruling Party established that the respondent wilfully had joined hands with the Ruling party which is detrimental to the political party on which he was elected as member. This Authority have also received the comments from the Leader of the TDP (Sri.Nara Chandrababu Naidu) wherein he has stated that after due deliberations from their end, the whip of Telugu Desam Legislature Party has filed the present petition against the Respondent. The opportunity given to the Respondent to rebut the

evidence so presented by the Petitioner was not availed, for reasons best known to the Respondent himself.

5.2. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?

- 5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and having voluntarily given up membership of the TDP Party. The Respondent has objected to the use of evidence provided by the Petitioner contending that it is not legally admissible and the veracity of the documents is doubtful.
- 5.2.2. A reading of the above Paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Ruling Political Party by meeting the Hon'ble Chief Minister. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Ruling Party activities.
- 5.2.3. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore

the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed.

Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

- 5.2.4. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials.

Hence, it's imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

- 5.2.5. Upon reading the above allegations, this Authority have looked into the corresponding response of the Respondent in his Counter Submissions filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not admissible and of doubtful veracity. Upon perusal of the record, it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Hon'ble Chief Minister/Leader of the Ruling Party and his activities extending support to the activities of the Ruling Party.
- 5.2.6. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.
- 5.2.7. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in my view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are

the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

- 5.2.8. In the instant case, some leading Telugu newspapers have reported that the Respondent has joined hands with Ruling Party. Other media reports and photographs corroborate to this. The videos also suggest his active participation in the activities of YSRCP and his joining YSRCP. Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has Respondent given the proof of doing so.
- 5.2.9. The Hon'ble Supreme Court in a landmark judgment in the case of Ravi S. Naik vs. Union of India on 9th February 1994, has amply clarified the term "*voluntarily given up the membership*" wherein the court had inter alia observed:

"The said Paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has

voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.10. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (Disqualification on the Ground of Defection) Rules, 1986. Under Para 6(1), the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.11. On the basis of the incriminating evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organized by the Ruling party established that the Respondent wilfully had joined hands with the Ruling Party which is detrimental to the political party on which Respondent was elected as member.

5.2.12. Further, it is imperative to record that in spite of several opportunities given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) it is categorically proved that the Respondent had indeed acted against his original political party and thereby defected into YSRCP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under Para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under Para 6 of the X Schedule of the Constitution & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Maddali Giridhara Rao member of Andhra Pradesh Legislative Assembly from 94 – Guntur West Assembly Constituency, for the reasons stated herein above, has incurred disqualification under Para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Maddali Giridhara Rao, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No. 7 of 2024**BETWEEN:**

Dr. Dola Sree BalaVeeranjaneya Swamy,
Member of Legislative Assembly (MLA),
Elected from 110 - Kondapi Constituency,
Prakasam District, Whip, Telugu Desam Legislative Party (TDP),
1-143, Siddhantigari House, Thurpunaidupalem, Tangutur,
Prakasam District - Andhra Pradesh – 523272 . . . **Petitioner**

AND

Sri Vallabhaneni Vamsi, S/o Sri V.Ramesh Chand,
Member of Legislative Assembly,
Elected from 71 - Gannavaram Constituency,
D.No.1-150/4B, Gannavaram Mandal, Krishna District,
Andhra Pradesh-521101. . . **Respondent**

O R D E R

This petition is filed by Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly (MLA), elected from 110 - Kondapi Constituency, Prakasam District, Whip, Telugu Desam Legislative Party(TDLP), under Article 191 and X Schedule of the Constitution of India, R/w Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having

been setup by the Telugu Desam Party (TDP) party from 71 – Gannavaram, Assembly Constituency and assumed office in 2019.

- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of 'B form' that was allotted to him by the Telugu Desam Party (TDP) and with the party Manifesto and Statesmanship of party leadership on the symbol of 'cycle' that was allotted to the political party. He has further stated that the Respondent had voluntarily acted in contravention to the principles of the Telugu Desam Party (TDP) and had begun to function in affiliation to the ruling party and to give up his membership of the party by which he was elected.
- 1.3. The Petitioner alleged that the news clipping published in Eenadu News Paper dated 26-10-2019, under caption "yakapa loki vamsi?" and the news clipping published in Eenadu News Paper dated 15-11-2019, under caption "yakapa prabhutvaniki besharatu maddatu - Gannavaram MLA Vallabhaneni Vamsi" and the news clipping published in Sakshi News Paper dated 15-11-2019, under caption "isukapai chandrababu dikshalu sigguchetu" and the news clipping published in Andhra Jyothi News Paper dated 15-11-2019, under caption "ika jaganthone prayanam" and the news clipping published in Sakshi Newspaper dated 16-11-2019, under caption "nannu suspend chesentha scene ledu" and the news

clipping published in Andhra Jyothy Newspaper dated 16-11-2019, under caption "swardham kosam partini champesaru" and the news clipping published in Andhra Bhumi Newspaper dated 16-11-2019, under caption "Rajinamaku nenu ready lokesh siddamaa" and the news clipping published in Andhra Jyothy Newspaper dated 17-11-2019, under caption "Lokesh vodina MLC ga ela konasagutaru" and the news clipping published in Andhra Prabha News Paper dated 17-11-2019, under caption "Lokesh dammuvunda?" and the news clipping published in Eenadu News Paper dated 17-11-2019, under caption "Avesamtho noru jara shamichandi" and the news clipping published in Sakshi News Papers dated 17-11-2019, under caption "padavulu ammukunnana? Chudra poojalu cheyinchana?" and the news Telecast in ETV dated 16-11-2019, under caption "vamsi rajeenama" were all proofs of defection.

- 1.4. The Petitioner also stated that the Respondent while participating in the Assembly discussions opposed the policies of TDP and its leadership and indicated his allegiance to the actions of the YSRCP by propagating and making derogatory statements against the Telugu Desam Party (TDP) which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such telecasts and publications evidencing thereby the

Respondent has conclusively by his act and intent voluntarily given up his membership of Telugu Desam Party (TDP) within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.

- 1.5. The visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of Telugu Desam Party (TDP). He contested elections and secured election from the Telugu Desam Party (TDP) and therefore the Respondent has defected to YSRCP and he deserves to be disqualified from being continued as Member of Legislative Assembly (MLA) as mandated under para 2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri Vallabhaneni Vamsi, as he had voluntarily given up his membership of the political party by which he has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1 On 12th January 2024, Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly, Whip, Telugu Desam Legislature Party, the Petitioner, has given the disqualification petition. The Respondent was served the notice on 18.01.2024 through India Post to offer his comments within a week by providing all the material given by the Petitioner and through email as well.

- 2.2 The Respondent did not respond to it. Again, the Respondent was served notice to appear before this Authority on 29thJanuary, 2024 and he did not appear for oral hearing. On 29thJanuary, 2024, the Petitioner during the oral hearing reiterated the contents of the petition and requested to disqualify the Respondent. The Newspaper clippings and the digital links established that he has defected and would incur disqualification.
- 2.3 In his letter dated 05.02.2024, the Respondent has requested to grant extension of time for the hearing by four weeks allowing him the necessary period to compile and submit his comments along with permission to bring a lawyer with him for oral hearing. He was allowed to engage a counsel to assist him in the hearing.
- 2.4 The Respondent did not appear before this Authority for the oral hearings held on 08.02.2024 and 15.02.2024. The Respondent was served notice on 16.02.2024 to appear before this Authority for final oral hearing scheduled to be held on 19th February, 2024. The Respondent filed his Counter Submissions/Comments dated 16th February, 2024. The Respondent did not appear before this Authority for the final oral hearing held on 19.02.2024 but the petitioner appeared and reiterated the request to disqualify the Respondent.

3. COMMENTS MADE BY THE RESPONDENT:

3.1 The Respondent in his Counter Submissions stated that while the X Schedule of the Constitution aimed to curb political defections, it has inadvertently led to a reduction in the autonomy and independence of elected representatives. The Respondent also stated that the Schedule's stringent anti-defection provisions often compel lawmakers to toe the party line, even when it conflicts with their constituents' interests or their own principles. This can undermine the essence of representative democracy by stifling dissent and reducing legislative debates to mere formalities. Furthermore, the present Petitioner is misusing this law of Tenth Schedule at the behest of the political party i.e. TDP (Telugu Desam Party) to consolidate power and stifle dissent within their ranks. In TDP (Telugu Desam Party), the leadership has exploited the threat of disqualification under the anti- defection law to coerce legislators like the present Respondent into compliance, thereby dictating the Respondent herein to compromise freedom of conscience and independent decision-making. That the democratic principles, legislative independence, and political accountability are the highest paramount, and any disqualification must adhere to the said principles.

3.2 The Respondent also stated that he denies the said events as alleged in the defection petition and evidence that establish the Anti-Party Activities,

which are said to be allegedly in contra to the paragraph 2(1)(a) and 2(3)(4) of the Tenth Schedule of the Constitution of India, as narrated in para-No. 8 of the petition. The purported/unsubstantiated evidence is not legally admissible and are created and brought into existence for the purpose of filing this petition. That the said veracity of these documents is strictly doubtful and the same maybe put to appropriate test. The Petitioner must prove the contents of the said documents and electronic evidence, along with their accuracy and admissibility, as they are not in their original form and are susceptible to manipulation. The Respondent, however, is not admitting the contents of the documents filed along with the petition. The Respondent had denied the allegations made by the Petitioner and contended that the same were false, baseless and the print/electronic evidence shown is of doubtful authenticity and is susceptible to manipulation.

- 3.3 In addition to the above-mentioned submissions, the Respondent had miserably failed to place on record any new facts or plausible counter submissions on the material facts of the petition except stating some generalised principles on democracy and legal aspects about 'defection laws'.
- 3.4 Having regard to the ample opportunities given to both sides, after receiving the Comments/Counter Submissions on behalf of the

Respondent on record, this Authority proceed to issue the following orders:

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?*
2. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?**
- 5.1.1. The Petitioner in the petition had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the Telugu Desam Legislature Party. It was widely reported in various newspapers that he was joining YSRCP party. He had met the Hon'ble Chief Minister/Leader of the Ruling Party. He

had criticized the Telugu Desam party from which he was elected as member, he expressed his unconditional support to YSRC party government. He also expressed that his journey is now with the leader of YSRC party only. In some channels, he stated that he would support the government of YSRCP and very soon he would join YSRC party.

5.1.2. In view of this Authority, the newspaper reports alone cannot be taken as substantive evidence, and at best can be taken as providing reliable circumstantial evidence, unless proved otherwise. However, in the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard. The Respondent has neither denied the news reports nor has he given the proof of denying the media reports. It seems the Respondent was complacent with news reports.

5.1.3. The contentions raised by the Respondent, as outlined in paragraphs 5 through 12 of the submission, are duly noted and considered. However, it is imperative to clarify the purpose and purport of Article 191 and the Tenth Schedule of the Constitution of India, along with Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986. Article 191 of the Constitution

of India pertains to the disqualification of members. It enunciates that a person shall be disqualified for being chosen as, and for being, a Member of the Legislative Assembly or Legislative Council of a State if they hold any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder. The Tenth Schedule of the Constitution, popularly known to be the 'Anti-Defection Law', was incorporated to address the issue of political defections which could potentially undermine democratic principles and the sanctity of the electoral process. It seeks to curb the evil of political defections by providing for the disqualification of members who defect from their original political parties. The Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986, establishes the procedure for filing a petition for disqualification on the grounds of defection. It mandates that the petition must satisfy the grounds for disqualification as provided under the Tenth Schedule.

- 5.1.4. The contentions raised by the Respondent challenge the applicability of legal provisions and attempt to cast doubt on the authenticity and admissibility of the evidence presented by the Petitioner. However, it is essential to recognize that the Tenth Schedule was enacted to maintain

the purity of democratic processes and to ensure that elected representatives uphold the mandate given by the electorate. The Respondent's argument regarding the alleged reduction in the autonomy of elected representatives and the misuse of 'anti-defection laws' by political parties may be relevant for political discourse but are not determinative before this forum for evaluation of the present case.

5.1.5. The Respondent's contention regarding the failure of the Petitioner to provide documentary evidence of authorization and the objectives of the political party does not negate the substantive allegations of defection raised in the petition. Despite, the same were well served and received by the Respondent and his Counsel. Also, even assuming that there is no documentation, that does not by itself invalidate the grounds for initiating disqualification proceedings under the Tenth Schedule. In the present case, there is ample evidence placed on record by the Petitioner. But there seems to be no plausible remarks/counter submission to that effect except by vaguely doubting the veracity of those incriminating material against the Respondent. Therefore, considering the foregoing analysis, the contentions raised by the Respondent do not sufficiently undermine the Petitioner's case for initiating disqualification proceedings under the Tenth Schedule.

5.1.6. The rule 7(7) of the members of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person. In this regard the following observation made by the Hon'ble Supreme Court in its judgement dated the 11th of December, 2006 in ***Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*** is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

- 5.1.7. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.
- 5.1.8. This Authority also take this opportunity to address one issue before going further. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Hon'ble Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.
- 5.1.9. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the

disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

- 5.1.10. Based on the evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. In the material produced by the Petitioner before this Authority a CD evidencing the participation of the Respondent in the events organized by the Ruling Party established that the Respondent wilfully had joined hands with the Ruling party which is detrimental to the political party on which he was elected as member. This Authority also received the comments from the Leader of the TDP (Sri Nara Chandrababu Naidu) wherein he has stated that after due deliberations from their end, the whip of Telugu Desam Legislature Party has filed the present petition against the Respondent. The opportunity given to the Respondent to rebut the evidence so presented by the Petitioner was not availed, for reasons best known to the Respondent himself.

- 5.2. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?**
- 5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and having voluntarily given up membership of the TDP Party. The Respondent has objected to the use of evidence provided by the Petitioner contending it is not legally admissible and the veracity of the documents is doubtful.
- 5.2.2. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Ruling Political Party by meeting the Hon'ble Chief Minister. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Ruling Party activities.
- 5.2.3. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instances where the Hon'ble Supreme Court and High Court's proactive stance by taking *Suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed.

Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

- 5.2.4. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it's imperative that these evidence are duly considered and

evaluated within the legal framework to uphold the principles of fairness and justice.

- 5.2.5. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in his Counter Submissions filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not admissible and of doubtful veracity. Upon perusal of the record, it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Hon'ble Chief Minister/Leader of the Ruling Party and his activities extending support to the activities of the Ruling Party.
- 5.2.6. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.
- 5.2.7. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in view of this Authority, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been

decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.8. In the instant case some leading Telugu newspapers have reported that Respondent has joined hands with Ruling Party. Other media reports and photographs corroborate to this. The videos also suggest his active participation in the activities of YSRCP and his joining YSRCP. Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has Respondent given the proof of doing so.

5.2.9. The Hon'ble Supreme Court in a landmark judgment in the case of Ravi S. Naik vs. Union of India on 9th February 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political

party) provides for disqualification of a member of a House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.10. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (disqualification on the ground of defection) Rules, 1986. Under Para 6(1), the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.11. On the basis of the incriminating evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organized by the Ruling party established that the Respondent wilfully had joined hands with the Ruling Party which is detrimental to the political party on which Respondent was elected as member.

5.2.12. Further, it is imperative to record that inspite of opportunities given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) it is categorically proved that the Respondent had indeed acted against his original political party and thereby defected into YSRCP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule of the Constitution & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Vallabhaneni Vamsi, Member of Andhra Pradesh Legislative Assembly from 71 - Gannavaram, Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

5.2.12. Further, it is imperative to record that inspite of opportunities given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) it is categorically proved that the Respondent had indeed acted against his original political party and thereby defected into YSRCP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule of the Constitution & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Vallabhaneni Vamsi, Member of Andhra Pradesh Legislative Assembly from 71 - Gannavaram, Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Vallabhaneni Vamsi, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

Disqualification Petition No.8 of 2024

BETWEEN:

Dr. Dola Sree Bala Veeranjaneya Swamy,
Member of Legislative Assembly (MLA),
Elected from 110 - Kondapi Constituency,
Prakasam District, Whip, Telugu Desam Legislative Party (TDP),
1-143, Siddhantigari House, Thurpunaidupalem, Tangutur,
Prakasam District - Andhra Pradesh - 523272.... **Petitioner**

AND

Sri Vasupalli Ganesh Kumar,S/o Late V.Ramana,
Member of Legislative Assembly,
Elected from 22 - Visakhapatnam South Constituency,
D.No.38-35-7, Ranapratap Nagar, Marripalem,
Visakhapatnam District, Andhra Pradesh-530018 ...**Respondent**

O R D E R

This petition is filed by Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly (MLA), elected from 110 - Kondapi Constituency, Prakasam District, Whip, Telugu Desam Legislative Party(TDLP), under Article 191 and X Schedule of the Constitution of India, R/w Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of Defection) Rules, 1986 against the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the Respondent was elected to the Andhra Pradesh Legislative Assembly in the year 2019 having been setup by the Telugu Desam Legislature Party (TDLP) from 22 - Visakhapatnam South Assembly Constituency and assumed office in 2019.
- 1.2. The Petitioner also stated that the Respondent got elected as MLA on the basis of 'B form' that was allotted to Respondent by the Telugu Desam Party (TDP) and with the party Manifesto and Statesmanship of Party leadership on the symbol of 'Cycle' that was allotted to the political party i.e., Telugu Desam Party. Petitioner has further stated that the Respondent had voluntarily acted in contravention to the principles of the Telugu Desam Party (TDP) and had begun to function in affiliation to the Ruling Party and to give up his membership of the political party by which he was elected.
- 1.3. The Petitioner further submitted that the Respondent is openly sailing with the Hon'ble Chief Minister and other leaders of the Ruling Party i.e., YSRCP. Also, vehement reliance is placed on the evidences from the news clipping published in Sakshi Newspaper dated 20-09-2020, under caption "YSRCP loki MLA Vasupalli Ganesh kumarulu" and the news Telecast in I Dream TV dated 20-09-2020, under caption "YSRCP loki cherina MLA

Vasupalli Ganesh" and the news Telecast in TV 9 dated 20-09-2020, under caption "YCP ki vasupalli maddatu" and the news Telecast in Sakshi dated 12-10-2020, under caption "AP ki moodu rajadhanulu vundalsinde, 1000 kobbari kayalatho mokku chellimpu" and the news Telecast in Sakshi dated 12.10.2020, under caption "TDP dhanika vargala party – MLA Vasupalli Ganesh" were all proofs of defection.

1.4. The petitioner further submitted that the Respondent had indicated his allegiance to the actions of the YSRCP by propagating and making derogatory statements against the Telugu Desam Party (TDP) which were video graphed and telecasted in all TV channels and photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor controverted the contents of such telecasts and publications evidencing thereby the respondent has conclusively by his act and intent voluntarily given up his membership of Telugu Desam Party (TDP) within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.

1.5. The visible conduct of the respondent undeniably amounts to voluntarily giving up his membership of Telugu Desam Party (TDP). He contested elections and secured election from the Telugu Desam Party (TDP) and

therefore the respondent has defected to YSRCP and he deserves to be disqualified from being continued as Member of Legislative Assembly (MLA) as mandated under para2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the respondent i.e. Sri Vasupalli Ganesh Kumar, as he had voluntarily given up his membership of the political party by which he has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY :

- 2.1. On 12th January 2024, Dr. Dola Sree Bala Veeranjaneya Swamy, Member of Legislative Assembly, Whip, Telugu Desam Legislative Party, the Petitioner, has submitted the disqualification petition. The Respondent was served the notice on 18.01.2024 through India Post to offer his comments within a week by providing all the material given by the petitioner and through email as well.
- 2.2. The Respondent did not respond to it. Again, the Respondent was served notice to appear before this Authority on 29th January, 2024 and he appeared for oral hearing. On 29th January, 2024, the Petitioner during the oral hearing reiterated the contents of the Petition and requested to disqualify the Respondent. The Newspaper clippings and the digital links established that he has defected and would incur disqualification.

- 2.3. In his letter dated 05.02.2024, the Respondent has requested to grant extension of time for the hearing by four weeks allowing him the necessary period to compile and submit his comments along with permission to bring a lawyer with him for oral hearing. He was allowed to engage a counsel to assist him in the hearing.
- 2.4. The Respondent did not appear before this Authority for the oral hearings held on 08.02.2024 and 15.02.2024. The Respondent was served notice on 16.02.2024 to appear before this Authority for final oral hearing scheduled to be held on 19th February, 2024. The Respondent filed his Counter Submissions/Comments dated: Nil and received on 18.02.2024. The Respondent did not appear before this Authority for the final oral hearing held on 19.02.2024 but the petitioner appeared and reiterated the request to disqualify the Respondent.

3. COMMENTS MADE BY THE RESPONDENT:

- 3.1. The Respondent in his Counter Submissions stated that while the X Schedule of the Constitution aimed to curb political defections, it has inadvertently led to a reduction in the autonomy and independence of elected representatives. The Respondent also stated that the Schedule's stringent anti-defection provisions often compel lawmakers to toe the party line, even when it conflicts with their constituents' interests or their own

principles. This can undermine the essence of representative democracy by stifling dissent and reducing legislative debates to mere formalities. Furthermore, the present Petitioner is misusing this law of Tenth Schedule at the behest of the political party i.e. TDP (Telugu Desam Party) to consolidate power and stifle dissent within their ranks. In TDP (Telugu Desam Party), the leadership has exploited the threat of disqualification under the anti- defection law to coerce legislators like the present Respondent into compliance, thereby dictating the Respondent herein to compromise freedom of conscience and independent decision-making. That the democratic principles, legislative independence and political accountability are the highest paramount and any disqualification must adhere to the said principles.

- 3.2. The Respondent also stated that he hereby denies the said events as alleged in the defection petition and evidence that establish the Anti-Party Activities, which are said to be allegedly in contra to the paragraph 2(1)(a) and 2(3)(4) of the Tenth Schedule of the Constitution of India, as narrated in para-No. 8 of the Petition. The purported/unsubstantiated evidence is not legally admissible and are created and brought into existence for the purpose of filing this Petition. That the said veracity of these documents is strictly doubtful and the same maybe put to appropriate test.

The Petitioner must prove the contents of the said documents and electronic evidence, along with their accuracy and admissibility, as they are not in their original form and are susceptible to manipulation. The Respondent, however, is not admitting the contents of the documents filed along with the Petition. The Respondent had denied the allegations made by the Petitioner and contended that the same were false, baseless and the print/electronic evidence and questioned authenticity and is susceptible to manipulation.

- 3.3. In addition to the above-mentioned submissions, the Respondent had miserably failed to place on record any new facts or plausible counter submissions on the material facts of the petition except stating some generalised principles on democracy and legal aspects about 'defection laws'.
- 3.4. Having regard to the ample opportunities given to both sides, after receiving the Comments/Counter Submissions on behalf of the Respondent on record, this Authority proceed to issue the following orders:

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?*
2. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. **Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged anti-party activities of Respondent can be inferred as voluntarily given up the membership of TDP?**

5.1.1. The Petitioner in the petition had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the Telugu Desam Legislature Party. In the media, it was reported that the respondent had met the chief minister and in the respondent presence, his son had joined the YSRC party. It was also reported in a channel that the respondent would extend his support to the YSRCP government. It was also reported that he had joined his sons in the YSRCP. The respondent has also stated in the channel that he would work for the

success of YSRC party in the next elections for the Parliamentary constituency and assembly cons and also for the municipal elections. He has also criticised the leaders of his own party while supporting and praising the government of YSRCP.

- 5.1.2. In view of this Authority, the newspaper reports alone cannot be taken as substantive evidence, and at best can be taken as providing reliable circumstantial evidence, unless proved otherwise. However, in the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard. The Respondent has neither denied the news reports nor has he given the proof of denying the media reports. It seems the Respondent was complacent with news reports.
- 5.1.3. The contentions raised by the Respondent, as outlined in paragraphs 5 through 12 of the submission, are duly noted and considered. However, it is imperative to clarify the purpose and purport of Article 191 and the Tenth Schedule of the Constitution of India, along with Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986. Article 191 of the Constitution of India pertains to the disqualification of members. It enunciates that a person shall be

disqualified for being chosen as, and for being, a Member of the Legislative Assembly or Legislative Council of a State if they hold any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder. The Tenth Schedule of the Constitution, popularly known to be the 'Anti-Defection Law', was incorporated to address the issue of political defections which could potentially undermine democratic principles and the sanctity of the electoral process. It seeks to curb the evil of political defections by providing for the disqualification of members who defect from their original political parties.

The Rule 6 of the Members of the Andhra Pradesh Legislative Assembly (Disqualification on the ground of Defection) Rules, 1986, establishes the procedure for filing a petition for disqualification on the grounds of defection. It mandates that the petition must satisfy the grounds for disqualification as provided under the Tenth Schedule.

- 5.1.4. The contentions raised by the Respondent challenge the applicability of legal provisions and attempt to cast doubt on the authenticity and admissibility of the evidence presented by the petitioner. However, it is essential to recognize that the Tenth Schedule was enacted to maintain the purity of democratic processes and to ensure that elected representatives uphold the

mandate given by the electorate. The Respondent's argument regarding the alleged reduction in the autonomy of elected representatives and the misuse of 'anti-defection laws' by political parties may be relevant for political discourse but are not determinative before this forum for evaluation of the present case.

5.1.5. The Respondent's contention regarding the failure of the Petitioner to provide documentary evidence of authorization and the objectives of the political party does not negate the substantive allegations of defection raised in the petition. Despite, the same were well served and received by the Respondent and his Counsel. Also, Even assuming that there is no documentation, that does not by itself invalidate the grounds for initiating disqualification proceedings under the Tenth Schedule. In the present case, there is ample evidence placed on record by the petitioner. But there seems to be no plausible remarks/counter submission to that effect except by vaguely doubting the veracity of those incriminating material against the Respondent. Therefore, considering the foregoing analysis, the contentions raised by the respondent do not sufficiently undermine the Petitioner's case for initiating disqualification proceedings under the Tenth Schedule.

5.1.6. The rule 7(7) of the members of the Rules, stipulates that the Speaker while deciding a case has to give a reasonable opportunity to the member to

represent his case and to be heard in person. In this regard the following observation made by the Hon'ble Supreme Court in its judgement dated the 11th of December, 2006 in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* is relevant:

"The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case".

- 5.1.7. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample

opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.

- 5.1.8. This Authority also takes this opportunity to address one issue before going further. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are left pending for years contrary to the law. It is pertinent to note that the Hon'ble Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

- 5.1.9. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this Authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving

reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.10. Based on the evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the respondent has been duly informed. In the material produced by the petitioner before this Authority a CD evidencing the participation of the respondent in the events organized by the Ruling Party established that the respondent wilfully had joined hands with the Ruling party which is detrimental to the political party on which he was elected as member. This Authority also received the comments from the Leader of the TDP (Sri Nara Chandrababu Naidu) wherein he has stated that after due deliberations from their end, the whip of Telugu Desam Legislature Party has filed the present petition against the Respondent. The opportunity given to the Respondent to rebut the evidence so presented by the Petitioner was not availed, for reasons best known to the Respondent himself.

5.2. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?

- 5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and having voluntarily given up membership of the TDP Party. The Respondent has objected to the use of evidence provided by the Petitioner contending it is not legally admissible and the veracity of the documents is doubtful.
- 5.2.2. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Ruling Political Party by meeting the Hon'ble Chief Minister. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Ruling Party activities.
- 5.2.3. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instance where the Hon'ble Supreme Court and High Court's proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations,

environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

- 5.2.4. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it's imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.5. Upon reading the above allegations, this Authority has looked into the corresponding response of the Respondent in his Counter Submissions filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles are not admissible and doubtful veracity. Upon perusal of the record, it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Hon'ble Chief Minister/Leader of the Ruling Party and his activities extending support to the activities of the Ruling Party.

5.2.6. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.

5.2.7. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in view of this Authority, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would

publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.8. In the instant case some leading Telugu newspapers have reported that Respondent has joined hands with Ruling Party. Other media reports and photographs corroborate to this. The videos also suggest his active participation in the activities of YSRCP and his joining YSRCP. Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has Respondent given the proof of doing so.

5.2.9. The Hon'ble Supreme Court in a landmark judgment in the case of Ravi S. Naik vs. Union of India on 9th February 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Member of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.10. In the background of the settled above propositions this Authority propose to examine the Members of Andhra Pradesh Legislative Assembly (Disqualification on the Ground of Defection) Rules, 1986. Under Para 6(1), the Speaker is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.11. On the basis of the incriminating evidence adduced by the Petitioner, this Authority has no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organized by the Ruling party established that the Respondent wilfully had joined hands with the Ruling Party which is detrimental to the political party on which Respondent was elected as member.

5.2.12. Further, it is imperative to record that inspite of opportunities given to the Respondent to rebut the pleadings and the material so presented by the Petitioner was not availed, for reasons best known to the Respondent himself and all the material placed before this Authority and as per the proposition laid by the Hon’ble Supreme Court in Jagjit Singh vs State of Haryana and others (2006 11 SCC 1) it is categorically proved that the Respondent had

indeed acted against his original political party and thereby he defected into YSRCP.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule of the Constitution & Rule 8 of the members of the Andhra Pradesh Legislative Assembly (Disqualification on ground of defection) Rules 1986, this Authority hold that Sri Vasupalli Ganesh Kumar member of Andhra Pradesh Legislative Assembly from 22 – Visakhapatnam South Assembly Constituency, for the reasons stated herein above, has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus the respondent, Sri Vasupalli Ganesh Kumar, stands disqualified for continuing as member of the 15th Andhra Pradesh Legislative Assembly and it is declared that his seat has fallen vacant.

THAMMINENI SEETHARAM,
*Speaker,
Andhra Pradesh Legislative Assembly.*

Velagapudi,
Date:26.02.2024.

Dr. P.P.K. RAMACHARYULU,
Secretary General to State Legislature.